



California Regulatory Notice Register

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The *California Regulatory Notice Register* is an official state publication of the Office of Administrative Law containing notices of proposed regulatory actions by state regulatory agencies to adopt, amend or repeal regulations contained in the California Code of Regulations. The effective period of a notice of proposed regulatory action by a state agency in the *California Regulatory Notice Register* shall not exceed one year [Government Code § 11346.4(b)]. It is suggested, therefore, that issues of the *California Regulatory Notice Register* be retained for a minimum of 18 months.

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PROPOSED ACTION ON REGULATIONS

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TITLE 2. FAIR POLITICAL PRACTICES COMMISSION

NOTICE IS HEREBY GIVEN that the Fair Political Practices Commission, pursuant to the authority vested in it by Sections 82011, 87303, and 87304 of the Government Code to review proposed conflict-of-interest codes, will review the proposed/amended conflict-of-interest codes of the following:

CONFLICT-OF-INTEREST CODES

AMENDMENT

STATE: State Coastal Conservancy
Ocean Protection Council

A written comment period has been established commencing on **February 26, 2010** and closing on **April 12, 2010**. Written comments should be directed to the Fair Political Practices Commission, Attention **Cynthia Fisher**, 428 J Street, Suite 620, Sacramento, California 95814.

At the end of the 45-day comment period, the proposed conflict-of-interest code(s) will be submitted to the Commission's Executive Director for his review, unless any interested person or his or her duly authorized representative requests, no later than 15 days prior to the close of the written comment period, a public hearing before the full Commission. If a public hearing is requested, the proposed code(s) will be submitted to the Commission for review.

The Executive Director of the Commission will review the above-referenced conflict-of-interest code(s), proposed pursuant to Government Code Section 87300, which designate, pursuant to Government Code Section 87302, employees who must disclose certain investments, interests in real property and income.

The Executive Director of the Commission, upon his or its own motion or at the request of any interested person, will approve, or revise and approve, or return the proposed code(s) to the agency for revision and re-submission within 60 days without further notice.

Any interested person may present statements, arguments or comments, in writing to the Executive Director of the Commission, relative to review of the proposed conflict-of-interest code(s). Any written comments must be received no later than **April 12, 2010**. If a public hearing is to be held, oral comments may be presented to the Commission at the hearing.

COST TO LOCAL AGENCIES

There shall be no reimbursement for any new or increased costs to local government which may result from compliance with these codes because these are not new programs mandated on local agencies by the codes since the requirements described herein were mandated by the Political Reform Act of 1974. Therefore, they are not "costs mandated by the state" as defined in Government Code Section 17514.

EFFECT ON HOUSING COSTS AND BUSINESSES

Compliance with the codes has no potential effect on housing costs or on private persons, businesses or small businesses.

AUTHORITY

Government Code Sections 82011, 87303 and 87304 provide that the Fair Political Practices Commission as the code reviewing body for the above conflict-of-interest codes shall approve codes as submitted, revise the proposed code and approve it as revised, or return the proposed code for revision and re-submission.

REFERENCE

Government Code Sections 87300 and 87306 provide that agencies shall adopt and promulgate conflict-of-interest codes pursuant to the Political Reform Act and amend their codes when change is necessitated by changed circumstances.

CONTACT

Any inquiries concerning the proposed conflict-of-interest code(s) should be made to Cynthia Fisher, Fair Political Practices Commission, 428 J Street, Suite 620, Sacramento, California 95814, telephone (916) 322-5660.

AVAILABILITY OF PROPOSED CONFLICT-OF-INTEREST CODES

Copies of the proposed conflict-of-interest codes may be obtained from the Commission offices or the re-

spective agency. Requests for copies from the Commission should be made to **Cynthia Fisher**, Fair Political Practices Commission, 428 J Street, Suite 620, Sacramento, California 95814, telephone (916) 322-5660.

TITLE 3. DEPARTMENT OF FOOD AND AGRICULTURE

Notice of Proposed Rulemaking

The Department of Food and Agriculture proposes to amend Section 4500 of the regulations in Title 3 of the California Code Regulations pertaining to noxious weed species.

A public hearing is not scheduled. A public hearing will be held if any interested person, or his or her duly authorized representative, submits a written request for a public hearing to the Department no later than 15 days prior to the close of the written comment period.

Any person interested may present statements or arguments in writing relevant to the action proposed to the agency officer named below on or before April 12, 2010.

AUTHORITY AND REFERENCE

Food and Agricultural Code Sections 407 and 5004 authorize the Department to adopt these proposed regulations. The proposed revisions are to a regulation that interprets and makes specific Section 5004 of the Food and Agricultural Code.

INFORMATIVE DIGEST/PLAIN ENGLISH OVERVIEW

Food and Agricultural Code Section 5004 authorizes the Department to adopt a list of noxious weeds in order to both protect California's agricultural industry and protect important native plant species.

The factual basis for the determination by the Department that amendment of these regulations is necessary is as follows: Section 5004, Food and Agricultural Code. Section 5004 defines "noxious weed" as any species of plant that is, or is liable to be, troublesome, aggressive, intrusive, detrimental, or destructive to agriculture, silviculture, or important native species, and difficult to control or eradicate, which the Secretary, by regulation, designates to be a noxious weed.

The revisions proposed in this rulemaking action would add 33 weeds to the list of noxious weed species.

The specific purpose of Section 4500 is to establish the weed species that have been designated as noxious by the Secretary. Plant species that have been desig-

nated as noxious weeds may be subject to various restrictions including the statutory provisions for weed-free areas, noxious weed management, and provisions of the California Seed Law. Management or control activities taken against noxious weeds may both protect California's agricultural industry and protect important native plant species.

DISCLOSURES REGARDING THE PROPOSED ACTION

The Department has made the following initial determinations:

Mandate on local agencies and school districts: None.

Cost or savings to any state agency: None.

Cost to any local agency or school district which must be reimbursed in accordance with Government Code sections 17500 through 17630: None.

Cost or savings in federal funding to the state: None.

Nondiscretionary cost or savings imposed on local agencies: None.

Significant, statewide adverse economic impact directly affecting business including the ability of California businesses to compete with businesses in other states: None.

Cost impact on a representative private person or business: The department is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

Amendment of these regulations will not:

- (1) create or eliminate jobs within California;
- (2) create new businesses or eliminate existing businesses within California; or
- (3) affect the expansion of businesses currently doing business within California.

Significant effect on housing costs: None.

Small Business Determination

The Department has determined that the proposed regulations will affect small business.

CONSIDERATION OF ALTERNATIVES

In accordance with Government Code Section 11346.5, subdivision (a)(13), the Department must determine that no reasonable alternative it considered or that has otherwise been identified and brought to the attention of the Department would be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposed action.

The Department invites interested persons to present statements or arguments with respect to alternatives to the proposed regulations during the written comment period.

CONTACT PERSON

Inquiries concerning the proposed administrative action may be directed to:

Susan McCarthy
Department of Food and Agriculture
Plant Health and Pest Prevention Services
1220 N Street
Sacramento, CA 95814
smccarthy@cdfa.ca.gov
916.654.1017
916.654.1018 (FAX)

In her absence, you may contact Stephen Brown at the same phone number.

INTERNET ACCESS

The Department has posted the information regarding this proposed regulatory action on its Internet website (www.cdfa.ca.gov/cdfa/pendingregs).

AVAILABILITY OF STATEMENT OF REASONS AND TEXT OF PROPOSED REGULATIONS

The Department of Food and Agriculture has prepared an initial statement of reasons for the proposed action, has available all of the information upon which its proposal is based, and has available the express terms of the proposed action. A copy of the initial statement of reasons and the proposed regulations in underline and strikeout form may be obtained upon request. The location of the information on which the proposal is based may also be obtained upon request. In addition, the final statement of reasons will be available upon request. Requests should be directed to the contact named above.

If the regulations amended by the Department differ from, but are sufficiently related to the action proposed, they will be available to the public for at least 15 days prior to the date of amendment. Any person interested may obtain a copy of said regulations prior to the date of adoption by contacting the agency officer (contact) named above.

Upon its completion, copies of the Final Statement of Reasons may be obtained by contacting Ms. McCarthy at the above address.

TITLE 8. OCCUPATIONAL SAFETY AND HEALTH STANDARDS BOARD

NOTICE OF PUBLIC MEETING/PUBLIC HEARING/BUSINESS MEETING OF THE OCCUPATIONAL SAFETY AND HEALTH STANDARDS BOARD AND NOTICE OF PROPOSED CHANGES TO TITLE 8 OF THE CALIFORNIA CODE OF REGULATIONS

Pursuant to Government Code Section 11346.4 and the provisions of Labor Code Sections 142.1, 142.2, 142.3, 142.4, and 144.6, the Occupational Safety and Health Standards Board of the State of California has set the time and place for a Public Meeting, Public Hearing, and Business Meeting:

PUBLIC MEETING: On **April 15, 2010**, at 10:00 a.m.
in the Auditorium of the State Resources Building,
1416 9th Street, Sacramento, California.

At the Public Meeting, the Board will make time available to receive comments or proposals from interested persons on any item concerning occupational safety and health.

PUBLIC HEARING: On **April 15, 2010**, following the Public Meeting,
in the Auditorium of the State Resources Building,
1416 9th Street, Sacramento, California.

At the Public Hearing, the Board will consider the public testimony on the proposed changes to occupational safety and health standards in Title 8 of the California Code of Regulations.

BUSINESS MEETING: On **April 15, 2010**, following the Public Hearing,
in the Auditorium of the State Resources Building,
1416 9th Street, Sacramento, California.

At the Business Meeting, the Board will conduct its monthly business.

DISABILITY ACCOMMODATION NOTICE

Disability accommodation is available upon request. Any person with a disability requiring an accommodation, auxiliary aid or service, or a modification of policies or procedures to ensure effective communication and access to the public hearings/meetings of the Occupational Safety and Health Standards Board should

contact the Disability Accommodation Coordinator at (916) 274-5721 or the state-wide Disability Accommodation Coordinator at 1-866-326-1616 (toll free). The state-wide Coordinator can also be reached through the California Relay Service, by dialing 711 or 1-800-735-2929 (TTY) or 1-800-855-3000 (TTY-Spanish).

Accommodations can include modifications of policies or procedures or provision of auxiliary aids or services. Accommodations include, but are not limited to, an Assistive Listening System (ALS), a Computer-Aided Transcription System or Communication Access Realtime Translation (CART), a sign-language interpreter, documents in Braille, large print or on computer disk, and audio cassette recording. Accommodation requests should be made as soon as possible. Requests for an ALS or CART should be made no later than five (5) days before the hearing.

**NOTICE OF PROPOSED CHANGES TO TITLE 8
OF THE CALIFORNIA CODE OF REGULATIONS
BY THE OCCUPATIONAL SAFETY AND
HEALTH STANDARDS BOARD**

Notice is hereby given pursuant to Government Code Section 11346.4 and Labor Code Sections 142.1, 142.4 and 144.5, that the Occupational Safety and Health Standards Board pursuant to the authority granted by Labor Code Section 142.3, and to implement Labor Code Section 142.3, will consider the following proposed revisions to Title 8, Construction Safety Orders of the California Code of Regulations, as indicated below, at its Public Hearing on **April 15, 2010**.

1. **TITLE 8: GENERAL INDUSTRY SAFETY ORDERS**
Division 1, Chapter 4, Subchapter 7
Article 76, Section 4650
Article 81, Section 4797
Article 85, Section 4823
Acetylene (Horchner)
2. **TITLE 8: GENERAL INDUSTRY SAFETY ORDERS**
Division 1, Chapter 4, Subchapter 7
Article 88, Section 4848
Update of Welding Fire Prevention and Suppression Procedures

Descriptions of the proposed changes are as follows:

1. **TITLE 8: GENERAL INDUSTRY SAFETY ORDERS**
Division 1, Chapter 4, Subchapter 7
Article 76, Section 4650
Article 81, Section 4797
Article 85, Section 4823
Acetylene (Horchner)

**INFORMATIVE DIGEST OF PROPOSED
ACTION/POLICY STATEMENT OVERVIEW**

The Occupational Safety and Health Standards Board (Board) intends to adopt this proposed rulemaking action pursuant to Labor Code Section 142.3, which mandates the Board to adopt regulations at least as effective as federal regulations addressing occupational safety and health issues.

The U.S. Department of Labor, Occupational Safety and Health Administration (OSHA) promulgated regulations revising national consensus standards referenced in the Federal Acetylene Standard on August 11, 2009, as 29 Code of Federal Regulations, Section 1910.102. The Board is relying on the explanation of the provisions of the federal regulations in Federal Register, Volume 74, No. 153, pages 40441-40447, August 11, 2009, as the justification for the Board's proposed rulemaking action. The Board proposes to adopt regulations which are the same as the federal regulations except for minor editorial and format differences.

This rulemaking updates the General Industry Safety Orders so that they reflect the updated references in Federal OSHA's final rule to the National Fire Protection Association (NFPA) 51A standard for acetylene charging plants and the Compressed Gas Association (CGA) G-1 and 1.2 standards.

Current wording in Sections 4650(t), 4823 and 4797(a) is deleted, because the deleted wording either conflicts with (i.e. is not at least as effective as 29 CFR 1910.102), or is repetitive of the provisions to be added to Title 8 as a result of this rulemaking.

The proposed regulations are substantially the same as the final rule promulgated by Federal OSHA. Therefore, Labor Code Section 142.3(a)(3) exempts the Board from the provisions of Article 5 (commencing with Section 11346) and Article 6 (commencing with Section 11349) of Chapter 3.5, Part 1, Division 3 of Title 2 of the Government Code when adopting standards substantially the same as a federal standard; however, the Board is still providing a comment period and will convene a public hearing. The primary purpose of the written comments and of the oral comments at the public hearing is to: 1) identify any issues unique to California related to this proposal which should be addressed in this rulemaking and/or a subsequent rulemaking and 2) solicit comments on the proposed effective date. The responses to comments will be available in a rulemaking file on this matter and will be limited to the above areas.

The effective date is proposed to be upon filing with the Secretary of State. The regulations may be adopted without further notice even though modifications may be made to the original proposal in response to public comments or at the Board's discretion.

DOCUMENTS INCORPORATED BY REFERENCE

1. Compressed Gas Association, Inc., CGA G-1-2003 Acetylene, Eleventh Edition.
2. National Fire Protection Association (NFPA) 51A Standard for Acetylene Cylinder Charging Plants, 2001 Edition.
3. National Fire Protection Association (NFPA) 51A Standard for Acetylene Cylinder Charging Plants, 2006 Edition.

These documents are too cumbersome or impractical to publish in Title 8. Therefore, it is proposed to incorporate the documents by reference. Copies of these documents are available for review Monday through Friday from 8:00 a.m. to 4:30 p.m. at the Standards Board Office located at 2520 Venture Oaks Way, Suite 350, Sacramento, California.

COST ESTIMATES OF PROPOSED ACTION

Federal Register, Vol. 74 No. 153, August 11, 2009, concluded that the revisions will not impose additional costs on employers because the updated references represent the usual and customary practice of employers in the industry. OSHA certifies that it will not have significant impact on a substantial number of small entities. Consequently, the Board has determined that no significant statewide adverse economic or cost impact is anticipated.

DETERMINATION OF MANDATE

The Occupational Safety and Health Standards Board has determined that the proposed regulations do not impose a local mandate. Therefore, reimbursement by the state is not required pursuant to Part 7 (commencing with Section 17500) of Division 4 of the Government Code because the proposed amendments will not require local agencies or school districts to incur additional costs in complying with the proposal. Furthermore, these regulations do not constitute a "new program or higher level of service of an existing program within the meaning of Section 6 of Article XIII B of the California Constitution."

The California Supreme Court has established that a "program" within the meaning of Section 6 of Article XIII B of the California Constitution is one which carries out the governmental function of providing services to the public, or which, to implement a state policy, imposes unique requirements on local governments and does not apply generally to all residents and entities in the state. (County of Los Angeles v. State of California (1987) 43 Cal.3d 46.)

These proposed regulations do not require local agencies to carry out the governmental function of providing services to the public. Rather, the regulations require local agencies to take certain steps to ensure the safety and health of their own employees only. Moreover, these proposed regulations do not in any way require local agencies to administer the California Occupational Safety and Health program. (See City of Anaheim v. State of California (1987) 189 Cal.App.3d 1478.)

These proposed regulations do not impose unique requirements on local governments. All state, local and private employers will be required to comply with the prescribed standards.

EFFECT ON SMALL BUSINESSES

The Board has determined that the proposed amendments may affect small businesses. However, no economic impact is anticipated.

ASSESSMENT

The adoption of the proposed amendments to these regulations will neither create nor eliminate jobs in the State of California nor result in the elimination of existing businesses or create or expand businesses in the State of California.

REASONABLE ALTERNATIVES CONSIDERED

Our Board must determine that no reasonable alternative considered by the Board or that has otherwise been identified and brought to the attention of the Board would be more effective in carrying out the purpose for which the action is proposed or would be as effective as and less burdensome to affected private persons than the proposed action.

2. **TITLE 8: GENERAL INDUSTRY SAFETY ORDERS**
Division 1, Chapter 4, Subchapter 7
Article 88, Section 4848
Update of Welding Fire Prevention and Suppression Procedures

INFORMATIVE DIGEST OF PROPOSED ACTION/POLICY STATEMENT OVERVIEW

On July 24, 2008, the National Fire Protection Association (NFPA) Standards Council issued an updated NFPA 51B Standard for Fire Prevention During Welding, Cutting and Other Hot Work which was prepared by the NFPA Technical Committee. The update (NFPA 51B-2009) became effective on September 5, 2008 and supersedes all previous editions. This standard covers

provisions to prevent loss of life and property damage from fire or explosion as a result of hot work.

Board staff proposes to amend Section 4848 to incorporate by reference the 2009 edition of the NFPA 51B which includes (1) a new requirement for listed and/or approved welding blankets, pads and curtains and gives definitions for those terms; (2) updated hot work permit information; (3) clarification of the 35 foot rule to control the passage of sparks via cracks in vents, floors or ducts to other areas of the workplace where combustion could take place; (4) alternative hot work methods; (5) contractor hazard awareness standards, and, (6) new requirements for personal protective equipment. Staff also proposes (1) to amend the title of Section 4848 to clarify, consistent with the consensus standards incorporated by reference, that Section 4848 also addresses fire prevention and suppression methods and (2) to clarify that in addition to the NFPA 51B–2009 definitions, standards that concern fire prevention precautions and hot work responsibility are incorporated by reference to ensure workers are protected from fire and explosion hazards.

Although Section 4848 currently references the American National Standards Institute (ANSI/ASC) Z49.1–94 standard, staff determined that it was not necessary to update this standard, because since 1994, there have been no revisions to the information contained in the referenced Chapters 3 and 6 of that standard.

National consensus standards such as those referred to herein are developed by committees, labor and managerial representatives and technical experts.

The following actions are proposed:

Section 4848. Fire Prevention and Suppression Procedures.

This section requires the employer to establish a fire prevention and suppression procedure whenever welding operations as addressed by Sections 4794(a) and 4850(a) are conducted in the workplace and includes employer issuance of fire suppression and prevention procedures based upon standards contained in two referenced national consensus standards: ANSI/ASC Z49.1–94 Chapters 3 and 6 and the NFPA 51B–1999, Chapter 3, which are incorporated by reference.

Amendments are proposed to expand the title of Section 4848 to include the term “and methods” consistent with the content of the standard and the national consensus standards referenced therein. It is also proposed to update the subsection (a) NFPA 51B reference to the 2009 edition and to delete the reference to Chapter 3 of that standard so that the entire NFPA standard will be included within the scope of Section 4848. Incorporating by reference the entire NFPA 51B standard beyond the Chapter 3 definitions and thereby including standards pertaining to fire prevention procedures and hot work

responsibility will enable the employer to effectively and comprehensively control workplace fire and explosion risks that could arise from confusion over hot work responsibilities and inadequate fire prevention procedures. The proposed amendments will provide employers with state-of-the-art administrative tools and prevention methods to control the risk of fire and explosion created by their workplace welding operations.

A nonsubstantive change (the addition of a comma after “chapters 3 and 6”) is also made to subsection (a).

A new subsection (b) is proposed to require that all welding blankets, curtains and pads be approved for use in accordance with GISO Section 3206. The proposed subsection (b) will clarify to the employer, consistent with manufacturers existing practices for evaluating and listing these items, what qualifies as an approved-for-use welding pad, blanket and curtain.

DOCUMENT INCORPORATED BY REFERENCE

National Fire Protection Association 51B–2009, Standard for Fire Prevention During Welding Cutting, and Other Hot Work.

This document is too cumbersome or impractical to publish in Title 8. Therefore, it is proposed to incorporate the document by reference. A copy of this document is available for review Monday through Friday from 8:00 a.m. to 4:30 p.m. at the Standards Board Office located at 2520 Venture Oaks Way, Suite 350, Sacramento, California.

COST ESTIMATES OF PROPOSED ACTION

Costs or Savings to State Agencies

No costs or savings to state agencies will result as a consequence of the proposed action.

Impact on Housing Costs

The Board has made an initial determination that this proposal will not significantly affect housing costs.

Impact on Businesses

The Board has made an initial determination that this proposal will not result in a significant, statewide adverse economic impact directly affecting businesses, including the ability of California businesses to compete with businesses in other states.

Cost Impact on Private Persons or Businesses

The Board is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

Costs or Savings in Federal Funding to the State

The proposal will not result in costs or savings in federal funding to the state.

Costs or Savings to Local Agencies or School Districts Required to be Reimbursed

No costs to local agencies or school districts are required to be reimbursed. See explanation under “Determination of Mandate.”

Other Nondiscretionary Costs or Savings Imposed on Local Agencies

This proposal does not impose nondiscretionary costs or savings on local agencies.

DETERMINATION OF MANDATE

The Occupational Safety and Health Standards Board has determined that the proposed regulation does not impose a local mandate. Therefore, reimbursement by the state is not required pursuant to Part 7 (commencing with Section 17500) of Division 4 of the Government Code because the proposed amendment will not require local agencies or school districts to incur additional costs in complying with the proposal. Furthermore, this regulation does not constitute a “new program or higher level of service of an existing program within the meaning of Section 6 of Article XIII B of the California Constitution.”

The California Supreme Court has established that a “program” within the meaning of Section 6 of Article XIII B of the California Constitution is one which carries out the governmental function of providing services to the public, or which, to implement a state policy, imposes unique requirements on local governments and does not apply generally to all residents and entities in the state. (*County of Los Angeles v. State of California* (1987) 43 Cal.3d 46.)

This proposed regulation does not require local agencies to carry out the governmental function of providing services to the public. Rather, the regulation requires local agencies to take certain steps to ensure the safety and health of their own employees only. Moreover, this proposed regulation does not in any way require local agencies to administer the California Occupational Safety and Health program. (See *City of Anaheim v. State of California* (1987) 189 Cal.App.3d 1478.)

This proposed regulation does not impose unique requirements on local governments. All state, local and private employers will be required to comply with the prescribed standards.

EFFECT ON SMALL BUSINESSES

The Board has determined that the proposed amendment may affect small businesses. However, no economic impact is anticipated.

ASSESSMENT

The adoption of the proposed amendments to this regulation will neither create nor eliminate jobs in the State of California nor result in the elimination of existing businesses or create or expand businesses in the State of California.

REASONABLE ALTERNATIVES CONSIDERED

Our Board must determine that no reasonable alternative considered by the Board or that has otherwise been identified and brought to the attention of the Board would be more effective in carrying out the purpose for which the action is proposed or would be as effective as and less burdensome to affected private persons than the proposed action.

A copy of the proposed changes in STRIKEOUT/ UNDERLINE format is available upon request made to the Occupational Safety and Health Standard Board’s Office, 2520 Venture Oaks Way, Suite 350, Sacramento, CA 95833, (916) 274–5721. Copies will also be available at the Public Hearing.

An INITIAL STATEMENT OF REASONS containing a statement of the purpose and factual basis for the proposed actions, identification of the technical documents relied upon, and a description of any identified alternatives has been prepared and is available upon request from the Standards Board’s Office.

Notice is also given that any interested person may present statements or arguments orally or in writing at the hearing on the proposed changes under consideration. It is requested, but not required, that written comments be submitted so that they are received no later than April 9, 2010. The official record of the rulemaking proceedings will be closed at the conclusion of the public hearing and written comments received after 5:00 p.m. on April 15, 2010, will not be considered by the Board unless the Board announces an extension of time in which to submit written comments. Written comments should be mailed to the address provided below or submitted by fax at (916) 274–5743 or e–mailed at oshsb@dir.ca.gov. The Occupational Safety and Health Standards Board may thereafter adopt the above proposals substantially as set forth without further notice.

The Occupational Safety and Health Standards Board’s rulemaking file on the proposed actions including all the information upon which the proposals are based are open to public inspection Monday through Friday, from 8:30 a.m. to 4:30 p.m. at the Standards Board’s Office, 2520 Venture Oaks Way, Suite 350, Sacramento, CA 95833.

The full text of proposed changes, including any changes or modifications that may be made as a result of

the public hearing, shall be available from the Executive Officer 15 days prior to the date on which the Standards Board adopts the proposed changes.

Inquiries concerning either the proposed administrative action or the substance of the proposed changes may be directed to Marley Hart, Executive Officer, or Mike Manieri, Principal Safety Engineer, at (916) 274-5721.

You can access the Board's notice and other materials associated with this proposal on the Standards Board's homepage/website address which is <http://www.dir.ca.gov/oshsb>. Once the Final Statement of Reasons is prepared, it may be obtained by accessing the Board's website or by calling the telephone number listed above.

TITLE 9. DEPARTMENT OF MENTAL HEALTH

NOTICE OF PROPOSED RULEMAKING

TITLE 9, CALIFORNIA CODE OF REGULATIONS AMEND SECTION 1810.203.5 AND ADOPT SECTION 1850.350 REGARDING EARLY AND PERIODIC SCREENING, DIAGNOSIS, AND TREATMENT APPEAL PROCESS

NATURE OF PROCEEDING

NOTICE IS HEREBY GIVEN that the Department of Mental Health (DMH) is proposing to take the action described in the Informative Digest.

Any interested person may submit written statements, arguments, or comments relating to this proposal by submitting them in writing, or at the public hearing, whichever comes later, to the contact person listed below. Comments may also be submitted by facsimile (FAX) at (916) 651-3852 or by e-mail to regulations@dmh.ca.gov. Comments must be submitted prior to **5:00 p.m. on April 21, 2010**.

A public hearing regarding this proposal will be held on Wednesday, April 21, 2010, in the Auditorium at the Department of Water Resources located at 1416 Ninth Street in Sacramento, California. It will start at 1:00 p.m., and end when all comments have been received, or at 5:00 p.m., whichever comes first.

Following the public hearing the Department of Mental Health may thereafter adopt the proposals substantially as described below or may modify the proposals if the modifications are sufficiently related to the original

text. With the exception of technical or grammatical changes, the full text of any modified proposal will be available for 15 days prior to its adoption from the person designated in this Notice as contact person and will be mailed to those persons who submit written comments related to this proposal, or who provide oral testimony, if a public hearing is held, or who have requested notification of any changes to the proposal.

AUTHORITY AND REFERENCE

Pursuant to the authority vested by Sections 4005.1, and 4027 of the Welfare and Institutions Code, and to implement, interpret or make specific section 5778 of the Welfare and Institutions Code, the Department of Mental Health (DMH) is seeking changes to Division 1 of Title 9 of the California Code of Regulations as follows: amend Section 1810.203.5 and adopt Section 1850.350.

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

The Department is required to implement managed mental health care for Medi-Cal recipients through either a fee-for-service basis of reimbursement or with capitated contracts with counties, counties acting jointly, qualified individuals or organizations or nongovernmental entities. The Department is responsible for assuming specified program oversight authority formerly provided by the State Department of Health Care Services, including but not limited to oversight of certain utilization controls. This oversight responsibility entails, in part, conducting various reviews of Mental Health Plans (MHP), including subcontracting providers, which may result in Medi-Cal disallowances and/or Plans of Correction.

The Department convened and participated in a workgroup with representation from the County mental Health Directors Association (CMHDA), provider (subcontractor) organizations and Department staff to discuss related issues and explore possible proposals regarding appeals procedures. The chief desire of the subcontractor organizations regarding the Early and Periodic Screening, Diagnosis, and Treatment (EPSDT) record review appeals process was to address the fact that subcontractors could not directly appeal to the Department without the MHP's agreement to submit the appeal on the subcontractor's behalf. Additionally, providers wanted assurance that the MHP could not block their appeal submission.

A requirement to develop a progressive appeal process, with the ability for the MHP subcontractors to directly appeal to the Department, was placed in Assembly Bill 1780 as an amendment to Section 5778 of the

Welfare and Institutions Code. This bill was signed into law on September 26, 2008 and required the Department to propose a rulemaking package by no later than the end of the 2008–09 fiscal year to address adoption of an appeals process.

This proposed regulation package will provide an appeal process that includes a progressive process to resolve disputes about claims or recoupment relating to specialty mental health services under the Medi-Cal specialty mental health services waiver that result from record reviews of EPSDT providers. These regulations allow for the MHP subcontractor to appeal directly to the Department.

This is the second notice of action in regard to this regulation package. The first notice of action was published on July 10, 2009 and the initial public comment ended on August 24, 2009. The Department is reopening the public comment period to provide an opportunity for further comment on the proposed regulation package.

LOCAL MANDATE

This proposal does not impose a mandate on local agencies or school districts.

FISCAL IMPACT ESTIMATES

This proposal does not impose costs on any local agency or school district for which reimbursement would be required pursuant to Part 7 (commencing with Section 17500) of Division 4 of the Government Code. This proposal does not impose other nondiscretionary costs or savings on local agencies. This proposal does not result in any costs or savings in federal funding to the state.

COSTS OR SAVINGS TO STATE AGENCIES

No additional costs or savings to state agencies are anticipated.

BUSINESS IMPACT/SMALL BUSINESSES

The Department of Mental Health has made a determination that the proposed regulatory action would have no significant statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states. The proposal does not affect small businesses as defined by section 11342.610 because an appeal process currently exists without a formal hearing. These

regulations add to that existing process without any associated fees. Additionally persons or entities are not mandated to utilize this process and will only do so voluntarily.

ASSESSMENT REGARDING EFFECT ON JOBS/BUSINESSES

The Department of Mental Health has determined that this regulatory proposal will not have any impact on the creation of jobs or new businesses or the elimination of jobs or existing businesses or the expansion of businesses in the State of California.

COST IMPACTS ON REPRESENTATIVE PERSON OR BUSINESS

The Department of Mental Health is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

EFFECT ON HOUSING COSTS

None.

CONSIDERATION OF ALTERNATIVES

The Department of Mental Health must determine that no reasonable alternative considered by it or that has otherwise been identified and brought to its attention would be more effective in carrying out the purpose for which this action is proposed or would be as effective as and less burdensome to affected private persons than the proposed action.

CONTACT PERSONS

Inquiries concerning the proposed adoption of these regulations and written comments may be directed to:

Steve Appel
Department of Mental Health
1600 9th Street, Room 435
Sacramento, CA 95814
(916) 654–2321

Backup Contact:

Gayathri Murthy
Department of Mental Health
1600 9th Street, Room 435
Sacramento, CA 95814
(916) 653–4460

INITIAL STATEMENT OF REASONS AND INFORMATION

The Department of Mental Health has prepared an initial statement of the reasons for the proposed action and has available all of the information upon which the proposal is based.

TEXT OF PROPOSAL

Copies of the exact language of the proposed regulations and of the initial statement of reasons, and all of the information upon which the proposal is based, may be obtained upon request from the Department of Mental Health at 1600 9th Street room 435, Sacramento, CA 95814. These documents may also be viewed and downloaded from the DMH website at www.dmh.ca.gov.

AVAILABILITY AND LOCATION OF THE FINAL STATEMENT OF REASONS AND RULEMAKING FILE

All the information upon which the proposed regulations are based is contained in the rulemaking file which is available for public inspection by contacting the person named above. You may obtain a copy of the final statement of reasons once it has been prepared, by making a written request to the contact person named above.

WEBSITE ACCESS

Materials regarding this proposal may be found at www.dmh.ca.gov.

TITLE 16. ACUPUNCTURE BOARD

Department of Consumer Affairs

NOTICE IS HEREBY GIVEN that the Acupuncture Board is proposing to take the action described in the Informative Digest. Any person interested may present statements or arguments orally or in writing relevant to the action proposed at a hearing to be held at the:

Department of Consumer Affairs
2005 Evergreen Street, 1st Floor Hearing Room
Sacramento, California

**April 14, 2010
9:00 a.m.**

Written comments, including those sent by mail, facsimile, or e-mail to the addresses listed under Contact Person in this Notice, must be received by the Board at its office not later than 5:00 p.m. on April 14, 2010 or must be received by the Board at the hearing. The Board, upon its own motion or at the instance of any interested party, may thereafter adopt the proposals substantially as described below or may modify such proposals if such modifications are sufficiently related to the original text. With the exception of technical or grammatical changes, the full text of any modified proposal will be available for 15 days prior to its adoption from the person designated in this Notice as contact person and will be mailed to those persons who submit written or oral testimony related to this proposal or who have requested notification of any changes to the proposal.

Authority and Reference: Pursuant to the authority vested by Sections 4933 of the Business and Professions Code, and to implement, interpret or make specific Sections 144, 4928.1, 4955, and 4965 of the Business and Professions Code; and Section 11105 of the Penal Code, the Board is considering changes to Division 13.7 of Title 16 of the California Code of Regulations as follows:

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

Business and Professions Code sections 4933 authorizes the Board to adopt, amend, or repeal, such rules regulations as may be reasonably necessary to enable it to carry into effect the provisions of law relating to the practice of acupuncture. The Board is proposing the following:

The main purpose of the proposed language is to establish requirements that a licensee must furnish a full set of fingerprints to the Department of Justice ("DOJ") as a condition of renewal with the Acupuncture Board ("Board") if the licensee was initially licensed prior to 2001 or if an electronic record of the fingerprint submission no longer exists. Generally, this proposal would:

- set requirements and time frames for when the licensee would be required to submit criminal history information and other related records to the Board;
- specify the conditions and the purpose for which a full set of fingerprints would be required;
- establish that the licensee would be responsible for paying the costs associated with furnishing fingerprints and conducting criminal offender record searches;

- require a licensee to certify compliance with the new fingerprinting requirements on his or her renewal form and maintain records of his or her compliance for at least 3 years;
- authorize a waiver of these new fingerprinting requirements for licensees who are inactive or actively serving in the military outside of the country;
- mandate that licensees disclose on the renewal form whether the licensee has been convicted of a crime, as defined, or had any disciplinary actions taken against any other license he or she holds; and,
- specify that failure to comply with these requirements or submit a full set of fingerprints to DOJ renders any application for renewal incomplete and is grounds for discipline by the Board.

Proposed changes, by section, are more specifically identified as follows.

Add Section 1399.419.1. Response to Board Inquiry.

The section would provide that if the Board asks a licensee to provide criminal history information, the licensee must respond to the request within 30 days by making available all documents and other records requested, and specifies that the information provided must be accurate. This section would establish the time-frame for a licensee's compliance to the Board's inquiries and would ensure that accurate information is received from the licensee. This section would protect consumers by assisting the Board's enforcement staff in the gathering of information and the investigative process for determining whether a licensee is in compliance with the Acupuncture Licensure Act.

Section 1399.419.2. Fingerprint and Disclosure Requirements for Renewal of License.

This heading text would inform licensees that the sections that follow relate to fingerprinting and disclosure requirements for the renewal of a license.

Add Section 1399.419.2(a)

This section would establish requirements that a licensee must furnish a full set of fingerprints to the Department of Justice ("DOJ") as a condition of renewal with the Acupuncture Board ("Board") if the licensee was initially licensed prior to 2001 or if an electronic record of the fingerprint submission no longer exists. Licensees need to be made aware that certain groups of licensees will be required to be fingerprinted as a condition of license renewal, and this regulation would authorize the Board to require fingerprinting of these licensees. This section would protect consumers by giving the Board access to currently available DOJ information relative to criminal arrests and convictions and

would enable the Board to determine if violations of the Acupuncture Licensure Act have occurred.

Add Section 1399.419.2(a)(1)

This section would establish that the cost of fingerprinting and conducting the criminal history record check must be paid by the licensee. This regulation is necessary to authorize assessment of costs to licensees, which is consistent with fingerprinting and record check costs that have been paid by every other licensee or applicant since 2001.

Add Section 1399.419.2(a)(2)

This section would establish that as part of the renewal process, each licensee will be asked to certify on his or her renewal form whether or not they have submitted fingerprints to the Department of Justice as required.

Add Section 1399.419.2(a)(3)

This section would establish an exemption from or waiver of the fingerprinting requirement if the license is on an inactive status or if the licensee is actively serving in the military outside the country.

Add Section 1399.419.2(a)(4)

This section would require affected licensees to retain a receipt, as specified, of compliance with the fingerprinting requirement for a period of at least three years. This requirement is necessary to provide evidence that a licensee has complied with the fingerprinting requirement.

Add Section 1399.419.2(b)

This section would mandate that if a licensee is convicted of any violation of the law during the prior renewal cycle, the licensee must disclose that fact to the Board, with infractions specified that may be omitted. This reporting requirement is necessary for consumer protection and enforcement of the Acupuncture Licensure Act. This information is necessary to determine if disciplinary action is warranted pursuant to the Board's authority (e.g., Sections 141 and 4955 of the Business and Professions Code).

Add Section 1399.419.2(c)

This section would mandate that since the licensee last applied for renewal, whether he or she has been denied a license or had any disciplinary action against another license that the licensee may hold must be reported. This reporting requirement is necessary for consumer protection and enforcement of the Acupuncture Licensure Act. Many licensees hold other licenses either in California or in other states. This language would assist the Board in obtaining information relative to discipline taken by other corresponding state or government licensing entities. This information is necessary to determine if disciplinary action is warranted pursuant to the Board's authority (e.g., Sections 141 and 4955 of the Business and Professions Code).

Add Section 1399.419.2(d)

This section would establish that failure to comply with these requirements would result in nonrenewal of the license until the licensee complies with all of the requirements of this section (e.g., fingerprinting, disclosure or record-keeping requirements). This requirement is needed to ensure compliance with the unprofessional conduct statutes of the Acupuncture Licensure Act and prevents possible renewal of a license for a licensee who has violated the law.

Add Section 1399.419.2(e)

This section would provide that failure to furnish a full set of fingerprints as required is grounds for discipline by the Board. The Board must have the ability to enforce the requirements of the section by disciplining the license of a licensee who refuses to comply with the requirements for fingerprinting. The licensee could be in violation of the law or potentially cause patient harm if the Board does not have the ability to verify the criminal history of its licensees through the DOJ or take action for noncompliance.

Add Section 1399.419.2(f)

This section would require that licensees, as a condition of restoring their license from inactive to active status, would be required to submit a full set of fingerprints to the DOJ according to the provisions of Section 1399.419.2. This provision is necessary to ensure that criminal offender record information continues to be transmitted to the Board upon reactivation of a license.

FISCAL IMPACT ESTIMATES

Fiscal Impact on Public Agencies Including Costs or Savings to State Agencies or Costs/Savings in Federal Funding to the State: The Board does not anticipate needing any additional positions or funding to process the additional fingerprint records or the applicable disciplinary actions that may result from fingerprint reports.

Nondiscretionary Costs/Savings to Local Agencies:
None

Local Mandate: None

Cost to Any Local Agency or School District for Which Government Code Section 17561 Requires Reimbursement: None

Business Impact: The board has made an initial determination that the proposed regulatory action would have no significant statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states. There are approximately 750 vendors statewide, including small businesses that provide fingerprinting services. There should be no initial or ongoing cost impact upon vendors because they are already equipped to

provide the service and the fingerprinting of the approximate 5,000 licensees will be extended over a two-year period.

Impact on Jobs/New Businesses: The Board has determined that this regulatory proposal will not have a significant impact on the creation of jobs or new businesses or the elimination of jobs or existing businesses or the expansion of businesses in the State of California.

Cost Impact on Representative Private Person or Business: Acupuncturists who have not previously been fingerprinted or for whom a fingerprint record no longer exists, will be required to be fingerprinted at the time of license renewal, reactivation, or reinstatement. The one-time cost for a person to get fingerprinted is approximately \$65.00. Of this fee, \$51.00 goes to the Department of Justice for conducting the background check and providing the criminal record report to the Board and the remainder is for the vendor for fingerprinting the individual. Vendor's fee ranges from \$5.00 to \$45.00 with the average fee being \$14.00.

Effect on Housing Costs: None

EFFECT ON SMALL BUSINESS

The regulation will not have a significant adverse economic impact on businesses. There are approximately 750 vendors statewide, including small businesses that provide fingerprinting services. There should not be any cost impact on vendors because they are already equipped to provide the service. This regulation will generate revenue for the vendors of Live Scan.

CONSIDERATION OF ALTERNATIVES

The Board must determine that no reasonable alternative it considered to the regulation or that has otherwise been identified and brought to its attention would either be more effective in carrying out the purpose for which the action is proposed or would be as effective as and less burdensome to affected private persons than the proposed action.

INITIAL STATEMENT OF REASONS
AND INFORMATION

The Board has prepared an initial statement of the reasons for the proposed action and has available all the information upon which the proposal is based.

TEXT OF PROPOSAL

Copies of the exact language of the proposed regulations and of the initial statement of reasons, and all of the information upon which the proposal is based, may be obtained at the hearing or prior to the hearing upon request from the Board at 444 North 3rd Street, Suite 260, Sacramento, California 95811.

AVAILABILITY AND LOCATION OF THE
FINAL STATEMENT OF REASONS AND
RULEMAKING FILE

All the information upon which the proposed regulations are based is contained in the rulemaking file which is available for public inspection by contacting the person named below. You may obtain a copy of the final statement of reasons once it has been prepared, by making a written request to the contact person named below [or by accessing the website listed below].

CONTACT PERSON

Inquiries or comments concerning the proposed rulemaking action may be addressed to:

Name: Erica Davalos
Address: 444 North 3rd Street, Suite 260
Sacramento, CA 95811
Telephone No.: 916-445-3019
Fax No.: 916-445-3015
E-Mail Address: erica_davalos@dca.ca.gov

The backup contact person is:

Name: Janelle Wedge, Executive Officer
Address: 444 North 3rd Street, Suite 260
Sacramento, CA 95811
Telephone No.: 916-445-3021
Fax No.: 916-445-3015
E-Mail Address: janelle_wedge@dca.ca.gov

Website Access: Materials regarding this proposal can be found at www.acupuncture.ca.gov

**TITLE 27. OFFICE OF
ENVIRONMENTAL HEALTH
HAZARD ASSESSMENT**

CALIFORNIA ENVIRONMENTAL
PROTECTION AGENCY
OFFICE OF ENVIRONMENTAL HEALTH
HAZARD ASSESSMENT

NOTICE OF PROPOSED RULEMAKING

TITLE 27, CALIFORNIA CODE OF
REGULATIONS

AMENDMENT TO SECTION 25805
SPECIFIC REGULATORY LEVELS:
CHEMICALS CAUSING REPRODUCTIVE
TOXICITY

NOTICE IS HEREBY GIVEN that the Office of Environmental Health Hazard Assessment (OEHHA) pro-

poses to establish a specific regulatory level having no observable effect for acrylamide, and amend Title 27, California Code of Regulations, Section 25805¹.

Acrylamide is currently being considered for listing via the authoritative bodies listing mechanism as known to cause reproductive or developmental effects. See http://www.oehha.ca.gov/prop65/CRNR_notices/admin_listing/intent_to_list/index.html. In the event the chemical is not listed for those endpoints, OEHHA will not proceed with the adoption of this regulation. Given the public interest in this chemical, OEHHA is proposing this regulation at this time to assist stakeholders and members of the public in assessing the potential impact of the listing. The proposed MADL is 140 micrograms per day. This is 700 times greater than 0.2 micrograms per day, which is the cancer No Significant Risk Level for acrylamide in regulation in Section 25705(c).

PUBLIC PROCEEDINGS

Any written statements or arguments regardless of the form or method of transmission must be received by OEHHA by 5:00 p.m. on **Tuesday, April 27, 2010**, the designated close of the written comment period.

Written comments regarding this proposed action can be sent by e-mail, mail or by fax addressed to:

Susan Luong
Office of Environmental Health Hazard Assessment
Proposition 65 Implementation Program
P.O. Box 4010
Sacramento, California 95812-4010
FAX: (916) 323-8803
Telephone: (916) 445-6900
sluong@oehha.ca.gov

Comments sent by courier should be delivered to:

Susan Luong
Office of Environmental Health Hazard Assessment
1001 I Street, 19th Floor
Sacramento, California 95814

It is requested but not required that written statements or arguments be submitted in triplicate.

A public hearing to present oral comments will be scheduled only if one is requested. The request must be submitted in writing no later than 15 days before the close of the comment period on **April 27, 2010**. The written request must be sent to OEHHA at the address listed below no later than Monday, **April 12, 2010**. A notice for the public hearing, if one is requested, will be mailed to interested parties who are on the Proposition 65 mailing list for regulatory public hearings. The notice will also be posted on the OEHHA web site at least

¹ All further regulatory references are to Title 27 of the California Code of Regulations unless otherwise indicated.

ten days in advance of the public hearing date. The notice will provide the date, time, location and subject matter to be heard.

If a hearing is scheduled and you have special accommodation or language needs, please contact Susan Luong at (916) 445-6900 or sluong@oehha.ca.gov at least one week in advance of the hearing. TTY/TDD/Speech-to-Speech users may dial 7-1-1 for the California Relay Service.

CONTACT

Please direct inquiries concerning the substance and processing of the action described in this notice to Susan Luong, in writing at the address given above, or by telephone at (916) 445-6900. Ms. Cynthia Oshita is a back-up contact person for inquiries concerning processing of this action and is available at the same telephone number.

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

The Safe Drinking Water and Toxic Enforcement Act of 1986, codified at Health and Safety Code section 25249.5 et seq. and commonly known as Proposition 65 (hereinafter Proposition 65 or the Act), prohibits a person in the course of doing business from knowingly and intentionally exposing any individual to a chemical that has been listed as known to the State to cause cancer or reproductive toxicity, without first giving clear and reasonable warning to such individual (Health and Safety Code section 25249.6). The Act also prohibits a business from knowingly discharging a listed chemical into water or onto or into land where such chemical passes or probably will pass into any source of drinking water (Health and Safety Code section 25249.5).

For chemicals known to the state to cause reproductive toxicity, an exemption from the warning requirement is provided by the Act when a person in the course of doing business is able to demonstrate that an exposure for which the person is responsible produces no observable reproductive effect, assuming exposure at 1,000 times the level in question (Health and Safety Code sections 25249.9, 25249.10 and 25249.11). The maximum dose level at which a chemical has no observable reproductive effect is referred to as the no observable effect level (NOEL). The Act also provides an exemption from the prohibition against discharging a listed chemical into sources of drinking water if the amount discharged does not constitute a "significant amount," as defined, and the discharge is in conformity with all other laws and regulatory requirements (Health

and Safety Code sections 25249.9 and 25249.11). Thus, these exemptions apply when the exposure or discharge in question is at a level that does not exceed the NOEL divided by 1,000.

Regulations previously adopted by the Office of Environmental Health Hazard Assessment (OEHHA) provide guidance for determining whether an exposure to, or a discharge of, a chemical known to cause reproductive toxicity meets the statutory exemption (Title 27, California Code of Regulations, sections 25801-25821). These regulations provide three ways by which a person in the course of doing business may make such a determination: (1) by conducting a risk assessment in accordance with the principles described in Section 25803 to derive a NOEL, and dividing the NOEL by 1,000; or (2) by application of the specific regulatory level adopted for the chemical in Section 25805; or (3) in the absence of such a level, by using a risk assessment conducted by a state or federal agency, provided that such assessment substantially complies with Section 25803(a). The specific regulatory levels in Section 25805 represent one one-thousandth of the NOEL.

This proposed regulation sets forth a maximum allowable dose level (MADL) for adoption into Section 25805 that was derived using scientific methods outlined in Section 25803.

Details on the basis for the proposed level are provided in the reference cited below, which are also included in the rulemaking record. The reference is a risk assessment document prepared by OEHHA describing and summarizing the derivation of the regulatory level listed below.

The proposed regulation would adopt the following regulatory level for one chemical known to cause reproductive toxicity into Section 25805:

Chemical	MADL, in units micrograms per day	Reference
Acrylamide	140	OEHHA (2010)

The risk assessment which was used by the Office of Environmental Health Hazard Assessment to determine the stated level is as follows:

Office of Environmental Health Hazard Assessment (OEHHA, 2010). Proposition 65 Proposed Maximum Allowable Dose Level (MADL) for Reproductive Toxicity for Acrylamide. OEHHA Reproductive and Cancer Hazard Assessment Branch, California Environmental Protection Agency, Sacramento, February 2010.

AUTHORITY

Health and Safety Code Section 25249.12.

REFERENCE

Health and Safety Code Sections 25249.5, 25249.6, 25249.9, 25249.10 and 25249.11.

**IMPACT ON LOCAL AGENCIES
OR SCHOOL DISTRICTS**

OEHHA has determined the proposed regulatory action would not pose a mandate on local agencies or school districts nor does it require reimbursement by the State pursuant to Part 7 (commencing with Section 17500) of Division 4 of the Government Code. OEHHA has also determined that no nondiscretionary costs or savings to local agencies or school districts will result from the proposed regulatory action.

COSTS OR SAVINGS TO STATE AGENCIES

OEHHA has determined that no savings or increased costs to any State agency will result from the proposed regulatory action.

**EFFECT ON FEDERAL FUNDING
TO THE STATE**

OEHHA has determined that no costs or savings in federal funding to the State will result from the proposed regulatory action.

EFFECT ON HOUSING COSTS

OEHHA has determined that the proposed regulatory action will have no effect on housing costs.

**SIGNIFICANT STATEWIDE ADVERSE
ECONOMIC IMPACT DIRECTLY AFFECTING
BUSINESS, INCLUDING ABILITY TO COMPETE**

OEHHA has made an initial determination that the adoption of the regulation will not have a significant statewide adverse economic impact directly affecting businesses, including the ability of California businesses to compete with businesses in other states.

**IMPACT ON THE CREATION, ELIMINATION,
OR EXPANSION OF JOBS/BUSINESSES**

OEHHA has determined that the proposed regulatory action will not have any impact on the creation or elimination of jobs, the creation of new businesses or the elimination of existing businesses, or the expansion of

businesses currently doing business within the State of California.

**COST IMPACTS ON REPRESENTATIVE
PRIVATE PERSONS OR BUSINESSES**

The OEHHA is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

EFFECT ON SMALL BUSINESSES

OEHHA has determined that the proposed regulation will not impose any requirements on small business. Rather, the proposed regulation will assist small businesses subject to the Act in determining whether or not an exposure for which they are responsible is subject to the warning requirement or discharge prohibition.

CONSIDERATION OF ALTERNATIVES

In accordance with Government Code Section 11346.5(a)(13), OEHHA must determine that no reasonable alternative considered by OEHHA or that has otherwise been identified and brought to the attention of OEHHA would be more effective in carrying out the purpose for which the action is proposed, or would be as effective and less burdensome to affected private persons than the proposed action.

**AVAILABILITY OF STATEMENT OF REASONS
AND TEXT OF PROPOSED REGULATIONS**

OEHHA has prepared and has available for public review an Initial Statement of Reasons for the regulation, all the critical information upon which the regulation is based, and the text of the regulation. A copy of the Initial Statement of Reasons, a copy of the text of the regulation and a copy of the risk assessment which was used by OEHHA to determine the MADL are available upon request from OEHHA's Proposition 65 Implementation Program at the address and telephone number indicated above. These documents are also posted on OEHHA's Web site at www.oehha.ca.gov.

**AVAILABILITY OF CHANGED OR
MODIFIED TEXT**

The full text of any regulation which is changed or modified from the express terms of the proposed action will be made available at least 15 days prior to the date on which OEHHA adopts the resulting regulation. Notice of the comment period on changed regulations and

the full text will be mailed to individuals who testified or submitted written comments at the public hearing, whose comments were received by OEHHA during the public comment period, and who request notification from OEHHA of availability of such changes. Copies of the notice and the changed regulation will also be available at the OEHHA's Web site at www.oehha.ca.gov.

FINAL STATEMENT OF REASONS

A copy of the Final Statement of Reasons may be obtained, when it becomes available, from OEHHA's Proposition 65 Implementation Program at the address and telephone number indicated above. The Final Statement of Reasons will also be available at the OEHHA's Web site at www.oehha.ca.gov.

GENERAL PUBLIC INTEREST

DEPARTMENT OF FISH AND GAME

Department of Fish and Game —
Public Interest Notice

For Publication February 26, 2010
PROPOSED RESEARCH ON FULLY
PROTECTED SPECIES

Monitoring and research of California Clapper Rail
and California Black Rail

The Department of Fish and Game (Department) received a proposal on February 11, 2010 from H. T. Harvey & Associates, Los Gatos, California, requesting authorization to take California Clapper Rail (*Rallus longirostris obsoletus*) (clapper rail) and California Black Rail (*Laterallus jamaicensis coturniculus*) (black rail) (hereinafter referred to as rails), which are Fully Protected birds, for research purposes, consistent with the protection and recovery of the species. The applicant is required to have a Scientific Collecting Permit (SCP) to take a protected bird species. Permit conditions require that the holder of an SCP obtain special authorization from the Department for research on Fully Protected species.

H. T. Harvey and Associates has been contracted to provide ecological consulting services to TEC Inc. to conduct surveys for selected special-status species at the Marine Ocean Terminal Concord (MOTCO) site in Concord, California. Information regarding the status and distribution of special-status species is being compiled by TEC to assist the U.S. Army with planning for a number of improvements being proposed as part of the

Army's master planning efforts for the site. Some of the projects that are being considered for the master plan, such as the widening of the main supply routes, strengthening of bridges, upgrades to pier intersections, development of loading/unloading areas, and railroad improvements, could potentially affect marshland habitats known to support sensitive species. Accordingly, targeted surveys for the clapper rail and black rail are warranted in these areas. The results will allow an update of the 10-year-old Integrated Natural Resources Management Plan (INRMP) mapping of sensitive species occurrences, and a determination of whether or not these species are present in areas that could be affected, either directly or indirectly, by proposed master plan activities. H. T. Harvey & Associates is planning to conduct presence/absence surveys at the MOTCO site for rails using call playback methods in accordance with a standard protocol. No adverse effects on individual rails or rail populations are expected. Additional similar projects may be authorized by the Department through this special permit. Additional approved projects may be conducted in other locations throughout the known range of clapper rails or black rails.

Destruction and alteration of wetlands is the principal reason for the decline of these rail species. Effective management efforts and species recovery requires a thorough understanding of the distribution and habitat requirements of these species. Tasks listed in the federal Salt-marsh Harvest Mouse and California Clapper Rail Recovery Plan (1984) may benefit from the issuance of this permit, as this research may help to: determine the causes of clapper rail population fluctuations; evaluate the effects of pollutants, sedimentation, and freshwater fluctuations on invertebrate prey of clapper rails; determine habitat preferences of clapper rail in tidal marshes; determine habitat preferences of the clapper rail in non-tidal diked marshes; and determine the effects of flood and mosquito control, as well as sea level changes, on the clapper rail. Similar information may be gleaned from presence/absence surveys for the black rail.

The Department intends to issue, under specified conditions, a Memorandum of Understanding (MOU) that would authorize the applicant, Stephen Rottenborn as the Principal Investigator and Department-approved staff, to carry out the proposed activities. As clapper rails are also federally endangered species, applicants are required to possess a valid federal threatened and endangered species recovery permit. The applicant has this federal permit.

Pursuant to California Fish and Game Code (FGC) Section 3511(a)(1), the Department may authorize take of Fully Protected bird species after 30 days notice has been provided to affected and interested parties through publication of this notice. If the Department determines

that the proposed research is consistent with the requirements of FGC Section 3511 for take of Fully Protected birds, it would issue the authorization on or after March 26, 2010, for an initial and renewable term of two years. Contact: Esther Burkett, eburkett@dfg.ca.gov, 916-445-3764.

CALIFORNIA FISH AND GAME COMMISSION

NOTICE OF RECEIPT OF PETITION

NOTICE IS HEREBY GIVEN that, pursuant to the provisions of Section 2073.3 of the Fish and Game Code, the California Fish and Game Commission, on January 27, 2010 received a petition from the Center for Biological Diversity to list the Mountain Yellow-Legged Frog (*Rana muscosa* and *Rana sierrae*) as an endangered species.

Mountain frogs inhabit ponds, lakes, and streams at moderate to high elevations. The species is usually associated with montane riparian habitats in lodgepole pine, yellow pine, sugar pine, white fir, whitebark pine, and wet meadow vegetation types.

Pursuant to Section 2073 of the Fish and Game Code, on February 4, 2010 the Commission transmitted the petition to the Department of Fish and Game for review pursuant to Section 2073.5 of said code. Interested parties may contact Dr. Eric Loft, Chief, Wildlife Branch, Department of Fish and Game, 1812 Ninth Street, Sacramento, CA 95811, or telephone (916) 445-3555 for information on the petition or to submit information to the Department relating to the petitioned species.

STATE ATHLETIC COMMISSION

NOTICE OF RESCHEDULED PUBLIC HEARING AND EXTENSION OF WRITTEN COMMENT DEADLINE

On July 10, 2009, the State Athletic Commission (hereinafter "commission") published notice in the California Regulatory Notice Register concerning proposed regulations on fingerprinting and other requirements for various individuals; promoter's license re-

quirements providing facilities for ringside physicians; and qualifying age of retired professional boxers to receive retirement benefits. (original notice published in the California Regulatory Notice Register 2009, No. 28-Z, p. 1071, July 10, 2009.)

The Commission originally scheduled a public hearing on August 24, 2009 in Los Angeles. **The hearing has now been rescheduled to March 18, 2010 and will be held at the Department of Consumer Affairs Lake Tahoe Room 2005 Evergreen Street, Sacramento, California 95815, at 1:00 p.m.** Any person interested may present statements or arguments orally or in writing relevant to the action proposed at this hearing.

In addition to comments submitted at the public hearing, written comments, including those sent by mail, facsimile, or e-mail will also be accepted by the Commission at its office and must be received not later than 5:00 p.m. on Thursday March 18, 2010 to the addresses listed under "Contact Person" below.

Please refer to our website for more details, including the text of the proposed regulation, full notice, and Initial Statement of Reasons at: http://www.dca.ca.gov/csac/about_us/rules.shtml

CONTACT PERSON

Inquiries or comments concerning the proposed rule-making action may be addressed to:

Name: Sal Barajas
Address: 2005 Evergreen Street, Suite 2010
Sacramento, CA 95815
Telephone No.: (916) 263-2195
Fax No.: (916) 263-2197
E-Mail Address: sal_barajas@dca.ca.gov

The backup contact person is:

Name: George Dodd
Address: 2005 Evergreen Street, Suite 2010
Sacramento, CA 95815
Telephone No.: (916) 263-2195
Fax No.: (916) 263-2197
E-Mail Address: george_dodd@dca.ca.gov

Materials regarding this proposal can be found at www.dca.ca.gov/csac.

PROPOSITION 65

OFFICE OF ENVIRONMENTAL HEALTH HAZARD ASSESSMENT

CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY OFFICE OF ENVIRONMENTAL HEALTH HAZARD ASSESSMENT

SAFE DRINKING WATER AND TOXIC ENFORCEMENT ACT OF 1986 (PROPOSITION 65)

NOTICE OF INTENT TO LIST ACRYLAMIDE

February 26, 2010

The California Environmental Protection Agency's Office of Environmental Health Hazard Assessment (OEHHA) has found that acrylamide meets the criteria for listing as a reproductive toxicant under the Safe Drinking Water and Toxic Enforcement Act of 1986.¹ It is therefore issuing this notice of intent to list this chemical under Proposition 65. This action is being taken under the authoritative bodies listing mechanism.²

Background on listing via the authoritative bodies mechanism: A chemical must be listed under the Proposition 65 regulations when two conditions are met:

- 1) An authoritative body formally identifies the chemical as causing reproductive toxicity (Section 25306(d)³).
- 2) The evidence considered by the authoritative body meets the sufficiency criteria contained in the regulations (Section 25306(g)).

However, the chemical is not listed if scientifically valid data which were not considered by the authoritative body clearly establish that the sufficiency of evidence criteria were not met (Section 25306(h)).

The National Institute for Occupational Safety and Health (NIOSH) and the National Toxicology Program (NTP) are two of several institutions designated as authoritative for the identification of chemicals as causing reproductive toxicity (Section 25306(l)). The NTP designation applies solely as to final reports of the NTP's Center for the Evaluation of Risks to Human Reproduction (CERHR).

OEHHA is the lead agency for implementation of Proposition 65. After an authoritative body has made a determination about a chemical, OEHHA evaluates whether listing under Proposition 65 is required using the criteria contained in the regulations.

OEHHA's determination: Acrylamide meets the criteria for listing as known to the State to cause reproductive toxicity under Proposition 65, based on findings of NIOSH and NTP-CERHR in their documents, as indicated in the table below.

Chemical	CAS No.	Endpoint	Reference	Chemical Use
Acrylamide	79-06-1	Developmental, male reproductive	NIOSH (1991 and 1992) NTP-CERHR (2005)	Used in the formation of plastics and grouting agents, formed in certain foods that have been cooked at high-temperature, present in cigarette smoke

Formal identification and sufficiency of evidence:

In 1991 and 1992, NIOSH published reports on occupational health standards for acrylamide that identified developmental and male reproductive toxicity (NIOSH 1991, 1992). These reports satisfy the formal identification and sufficiency of evidence criteria in the Proposition 65 regulations.

NIOSH (1991) concluded that:

"...acrylamide monomer may be neurotoxic, carcinogenic, genotoxic, and hazardous to

reproduction. Recent studies confirm that acrylamide exposures cause cancer and reproductive effects in animals, but epidemiologic studies have not demonstrated these effects in humans."

"Acrylamide exposure affected both fetal and postnatal development in mouse and rat offspring when dams were orally dosed during pregnancy."

NIOSH (1992) stated that:

"Acrylamide is an irritant, a potent neurotoxin that affects both the central and peripheral nervous systems, a reproductive toxin, and a carcinogen."

¹ Commonly known as Proposition 65, the Safe Drinking Water and Toxic Enforcement Act of 1986 is codified in Health and Safety Code section 25249.5 *et seq.*

² See Health and Safety Code section 25249.8(b) and Title 27, Cal. Code of Regs., section 25306.

³ All referenced sections are from Title 27 of the Cal. Code of Regulations.

Adverse effects on male reproduction cited in NIOSH (1991, 1992) consisted of testicular degeneration, decreased testosterone levels, decreased fertility, and dominant lethal effects in exposed experimental animals. Developmental effects included nerve degeneration, decreased birth weight and decreased weight gain in the offspring of animals exposed to acrylamide during pregnancy.

In 2005, the NTP–CERHR published a report on acrylamide (NTP–CERHR, 2005). This report concludes that the chemical causes developmental and male reproductive toxicity, and satisfies the formal identification and sufficiency of evidence criteria in the Proposition 65 regulations.

OEHHA is relying on the NTP–CERHR’s conclusions in the report that acrylamide causes reproductive toxicity. The NTP–CERHR report concludes that there is:

Clear evidence of adverse effects for developmental toxicity in laboratory animals.

Clear evidence of adverse effects for reproductive toxicity in laboratory animals (male mice and rats).

Developmental effects included reduced fetal and pup body weights in mice and rats. Male reproductive effects included adverse effects on sperm production, impaired mating ability and genetic damage in sperm that results in death of the embryo or fetus.

Based on the NTP–CERHR and NIOSH reports and the references cited in the reports, the evidence is sufficient for listing acrylamide as known to cause reproductive toxicity by the authoritative bodies mechanism.

Proposed safe harbor: Because of the significant public interest in this chemical, a Notice of Proposed Rulemaking identifying a proposed Maximum Allowable Dose Level (MADL) is being published concurrently with this notice of intent to list. OEHHA is proposing a MADL for acrylamide to assist stakeholders and the general public in assessing the potential impact of the listing. In the event the chemical is not listed for those endpoints, OEHHA will not proceed with the adoption of the proposed MADL.

History of consideration of acrylamide listing for reproductive toxicity endpoints: Relevant information related to the possible listing of this chemical was requested in a notice published in the *California Regulatory Notice Register* on August 22, 1997 (Register 97, No. 34–Z). A public forum was held on October 1, 1997. Written comments were received and responses provided. In 1998, the Developmental and Reproductive Toxicant Identification Committee, the state’s qualified experts for reproductive toxicity, removed NTP as an authoritative body for purposes of reproductive toxicity under Proposition 65. In 2003 the Commit-

tee reinstated NTP as an authoritative body for reproductive toxicity, solely as to final reports of the CERHR. In 2005, the NTP–CERHR finalized its assessment of acrylamide. OEHHA reviewed this assessment and determined that the criteria for listing as known to cause reproductive toxicity under Section 25306 are met for acrylamide. Accordingly, formal identification by NTP is now based on the NTP–CERHR monograph, and not the reports referenced in the August 1997 request for information.

OEHHA has determined that acrylamide meets the criteria for listing under Title 27, Cal. Code of Regs., section 25306, and therefore OEHHA is issuing this notice of intent to list it under Proposition 65.

Opportunity for Public Comment: OEHHA is committed to public participation in its implementation of Proposition 65. OEHHA wants to ensure that its regulatory decisions are based on a thorough consideration of all relevant information. If you wish to comment on whether this chemical meets the criteria for listing provided in Section 25306, please **submit your comments to OEHHA by 5:00 p.m. on Tuesday, April 27, 2010.** We encourage you to submit comments in electronic form, rather than in paper form. Comments transmitted by e-mail should be addressed to coshita@oehha.ca.gov. Comments submitted in paper form may be mailed, faxed, or delivered in person to the addresses below:

Mailing Address: Ms. Cynthia Oshita
Office of Environmental
Health Hazard Assessment
P.O. Box 4010, MS–19B
Sacramento, California
95812–4010

Fax: (916) 323–8803

Street Address: 1001 I Street
Sacramento, California 95814

If you have any questions, please contact Ms. Oshita at coshita@oehha.ca.gov or at (916) 445–6900.

References

National Institute for Occupational Safety and Health (NIOSH, 1991). *NIOSH and NIOSH basis for an occupational health standard — Acrylamide: A review of the literature*. Centers for Disease Control, Public Health Service, US Department of Health and Human Services in cooperation with the National Institute of Occupational Health, Solna, Sweden. DHHS/PUB/NIOSH–91–115.

National Institute for Occupational Safety and Health (NIOSH, 1992). *Occupational Safety and Health Guideline for Acrylamide*. US Department of Health

and Human Services, Public Health Service, Centers for Disease Control, NIOSH, Division of Standards Development and Technology Transfer.

National Toxicology Program — Center for the Evaluation of Risks to Human Reproduction (NTP—CERHR, 2005). *NTP—CERHR Monograph on the Potential Human Reproductive and Developmental Effects of Acrylamide*. NIH Publication No. 05–4472.

OFFICE OF ENVIRONMENTAL HEALTH HAZARD ASSESSMENT

CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY OFFICE OF ENVIRONMENTAL HEALTH HAZARD ASSESSMENT

SAFE DRINKING WATER AND TOXIC ENFORCEMENT ACT OF 1986 (PROPOSITION 65)

NOTICE OF INTENT TO LIST METAM POTASSIUM February 26, 2010

A chemical may be listed under the Safe Drinking Water and Toxic Enforcement Act of 1986 (commonly known as Proposition 65, codified at Health and Safety Code section 25249.5 et seq.) when a body considered to be authoritative by the state's qualified experts has formally identified the chemical as causing cancer or reproductive toxicity.¹ The following entities are identified as authoritative bodies for this purpose: the U.S. Environmental Protection Agency, the International Agency for Research on Cancer, the U.S. Food and Drug Administration, the National Institute for Occupational Safety and Health, and the National Toxicology Program.

As the lead agency for the implementation of Proposition 65, the Office of Environmental Health Hazard Assessment (OEHHA) within the California Environmental Protection Agency intends to list the chemical *Metam potassium* (CAS No. 137–41–7) as known to the State to cause cancer, pursuant to this administrative mechanism.

Relevant information related to the possible listing of *Metam potassium* was requested in a notice published in the *California Regulatory Notice Register* on De-

cember 5, 2008 (Register 2008, No. 49–Z). OEHHA received and responded to public comments.

OEHHA has determined that *Metam potassium* meets the regulatory criteria for listing based on the findings of the U.S. EPA (U.S. EPA, 1995; 2005; 2007; 2009). OEHHA is therefore issuing this notice of intent to list *Metam potassium* under Proposition 65. A document providing more detail on the scientific basis for the listing of *Metam potassium* can be obtained from OEHHA's Proposition 65 Implementation Office at the address and telephone number indicated below, or from the OEHHA Web site at: <http://www.oehha.ca.gov/>.

Comments as to whether *Metam potassium* meets the regulatory criteria for listing, along with any supporting documentation, may be transmitted via email addressed to coshita@oehha.ca.gov or to:

Ms. Cynthia Oshita
Office of Environmental Health Hazard Assessment
Street Address: 1001 I Street
Sacramento, California 95814
Mailing Address: P.O. Box 4010
Sacramento, California 95812–4010
Fax No.: (916) 323–8803
Telephone: (916) 445–6900

In order to be considered, **comments must be received at OEHHA by 5:00 p.m. on Monday, March 29, 2010.**

REFERENCES

U.S. Environmental Protection Agency (U.S. EPA, 1995). *Memorandum: Carcinogenicity Peer Review of Metam Sodium*. Office of Prevention, Pesticides and Toxic Substances. May 1, 1995.

U.S. Environmental Protection Agency (U.S. EPA, 2005). *Memorandum: Metam Sodium: Revised HED Human Health Risk Assessment for Phase 3: DP Barcode: D318051, Metam Sodium PC Code: 039003, MITC PC Code: 068103*. Health Effects Division. Office of Pesticide Programs. June 13, 2005.

U.S. Environmental Protection Agency (U.S. EPA, 2007). *Memorandum: Metam Sodium: Phase 5 Revised Chapter of the Reregistration Eligibility Decision Document (RED); DP Barcode: D337533, Metam Sodium PC Code: 039003; Metam Potassium PC Code: 039002, MITC PC Code: 068103*. Health Effects Division. Office of Pesticide Programs. April 12, 2007.

U.S. Environmental Protection Agency (2009). *Metam Sodium: Second Report of the Cancer Assessment Review Committee (Final)*. Office of Prevention, Pesticides and Toxic Substances. May 14, 2009.

¹ Health and Safety Code section 25249.8(b) and Title 27, Cal. Code of Regs., section 25306

RULEMAKING PETITION DECISION

AIR RESOURCES BOARD

February 11, 2010

Mr. Michael J. Steel, Esq.
Morrison Foerster
425 Market Street
San Francisco, California, 94105-2482
msteel@mofo.com

Re: Response to January 11, 2010, Petition Filed by
Associated General Contractors of America

Dear Mr. Steel:

I am writing in response to the petition filed pursuant to the Administrative Procedure Act (APA), Government Code section 11340.6, by the Associated General Contractors of America (AGC or petitioner) dated January 11, 2010.¹ The petition requests that the Air Resources Board (ARB or Board) adopt an emergency amendment to delay the fleet average target dates of the In-Use Off-Road Diesel-Fueled Fleets Regulation (regulation)² for two years. The petition also requests that ARB ask the United States Environmental Protection Agency (U.S. EPA) to postpone consideration of California's request for authorization of the regulation that ARB submitted pursuant to section 209(e)(2) of the federal Clean Air Act (CAA) until such time that ARB has resolved the issues underlying the petition.

After careful consideration of all of the facts associated with the petitioner's request, pursuant to Government Code section 11340.7(b), I am granting the following relief and finding that the following actions are warranted:

- (1) ARB will issue an advisory notifying all stakeholders subject to the regulation that ARB

¹ The petition is available from ARB upon request. Under the APA, any interested person may petition a State agency requesting the adoption, amendment, or repeal of a regulation as provided in Government Code section 11340.6. The petition must clearly and concisely state the substance or nature of the regulation, the requested amendment or repeal, the reason for the request, and the reference to the authority of the State agency to take the action requested. Under Government Code section 11340.7, the State agency within 30 days may grant or deny the petition in part, and may grant any other relief or take any other action as it may determine to be warranted by the petition. It must also indicate why the agency has reached its decision in writing and if it grants the petition, it must schedule the matter for public hearing in accordance with the notice and hearing requirements of the APA.

² Title 13, California Code of Regulations, sections 2449 through 2449.3.

will take no enforcement action regarding compliance with the regulation's emission standards or other emission related requirements before ARB receives authorization from U.S. EPA; and

- (2) a hearing will be held in Sacramento on March 11, 2010, before the Executive Officer to take testimony and other relevant information on the need for further amendments to the regulation to address the economic recession confronting the State and the adverse impacts that the recession has caused to the construction and other industries that operate off-road vehicles. As the Board has already directed staff to provide an update on the regulation at its April 2010 meeting, any information and testimony collected at this hearing shall be compiled and included as part of that update.

This relief, coupled with statutory and regulatory relief already provided by Assembly Bill 8 2X (AB 8 2X or bill), will ensure no stakeholders will be in violation with the regulation's March 1, 2010 emission standards or other emission related requirements. Therefore, I have concluded that an emergency does not exist. I am also taking no action on the petitioner's request that ARB request U.S. EPA to delay issuance of the authorization, because the request is outside the scope of the APA petition process.

Summary of January 11, 2010 Petition

The petitioner's request that ARB delay implementation of the regulation can be summarized as follows: since the Board's approval and adoption of the regulation in 2007-2008, changed circumstances in the economy and its impact on construction activity in California have affected the financial ability of construction fleets to comply with the regulation's requirements while concurrently resulting in fewer emissions from construction vehicles. In claiming that a two-year moratorium in implementing the initial compliance requirements is urgently necessary, the petition argues that, without such immediate relief, California construction contractors will suffer immediate and irreparable harm because the regulation as it currently exists will force fleets to either downsize or have to purchase and install expensive and unreliable emission control devices or repower their equipment in order to meet the 2010 and 2011 fleet average requirements.³ In making this claim, AGC asserts that the relief provided by AB 8 2X signed by the Governor on February 20, 2009, provides insufficient relief with "some relief to some contractors, but not to others, and certainly not to all [a]nd even those relieved of the initial burdens will find that that [sic] their relief is fleeting. . . ."⁴

³ Petition at p. 6.

⁴ *Id.*

AGC further argues that current economic conditions in the construction industry will not improve over the next two years,⁵ and that reduced emissions resulting from the current economy gives the Board flexibility to delay the regulation and thereby reduce the financial burdens that it will impose, while still meeting the goals of the State Implementation Plan.⁶

Background of the Regulation

The Board approved the regulation for adoption on July 26, 2007, and formally adopted it on April 4, 2008. In adopting the regulation the Board specifically found that the regulation was necessary, technically feasible, and cost effective.⁷ In finding that the regulations were necessary, the Board determined that in-use off-road diesel-fueled vehicles are significant contributors of emissions of oxides of nitrogen (NOx), particulate matter (PM), including PM2.5, and diesel exhaust, the last of which has been identified as a toxic air contaminant. The Board further found that the regulation would result in reductions in emissions that would prevent approximately 4,000 premature deaths and other harmful health impacts and would help California meet National Ambient Air Quality Standards (NAAQS) for ozone and PM2.5.

Subsequently, California, the nation, and the international community, in general, experienced a serious economic recession that has undisputedly impacted California businesses, including the State's construction industry. In response, as part of the 2009–2010 State budget, the California Legislature passed, and the Governor signed, AB 8 2X. Codified in Health and Safety Code section 43018.2, ARB was directed to amend the regulation to provide specified relief to affected stakeholders who have been negatively impacted by the State recession. Specifically, the legislation directed the Board to modify the NOx and PM credit provisions of the regulation to reflect vehicle retirements that reduce total fleet horsepower between March 1, 2006 and March 1, 2010, and reduced fleet activity between March 1, 2007, and March 1, 2010. It further directed the Board to amend the total cumulative NOx turnover and PM retrofit requirements for the years 2011 through 2013, to provide fleets with greater compliance flexibility with the regulation's requirements over the next three years.

Pursuant to the legislation's directives, the Board approved amendments to the regulation on July 23, 2009, with the amendments formally adopted and operative on December 3, 2009.

After adoption of the regulation in 2008, but before the enactment of AB 8 2X, AGC filed on December 15, 2008, the first of its two petitions, and requested that ARB amend and/or repeal the regulation. ARB and AGC agreed on February 4, 2009, to hold the petition in abeyance as the parties evaluate data to determine the recession's impacts on construction fleets. With notice from either party, the petition could once again be activated and require an ARB response. To date, neither party has sought to activate the first petition.

On December 3, 2009, AGC presented ARB staff with its 2009 emissions inventory modeling analysis using the Diesel Off-Road On-Line Reporting System (DOORS)⁸ data collected by ARB staff. The analysis was subsequently sent to the Board and made a part of the record of the December 11, 2009, Board hearing. At the hearing, the Board directed staff to return at its April and July 2010 Board hearings with an assessment of how the recession has impacted stakeholders subject to the regulation, using such information that is available, including the most recent fleet data that fleets are required to report no later than April 1, 2010.

Response to Petition

A. Actions Warranted by the Petition

Pursuant to the authority provided under Government Code section 11340.7, I am granting the following relief and finding the actions described below to be warranted.

1. Enforcement Advisory

I have determined that issuance of an enforcement advisory is warranted. The advisory will notify all stakeholders affected by the regulation that ARB will not take any enforcement action for noncompliance with the regulation's emission standards or other emission related requirements before ARB receives authorization from U.S. EPA.

2. Hearing before the Executive Officer to Determine Need for Further Relief from the Impacts of the Recession

I am scheduling a hearing to be held on March 11, 2010 before the Executive Officer for the purpose of receiving testimony and other relevant information on the question of whether the regulation needs to be further amended to provide additional mitigation for stakeholders that have been adversely impacted by the recession and for whom the compliance relief provided by the AB 8 2X amendments has not been adequate. At the hearing, the petitioner and affected stakeholders will be provided the opportunity to fully present information on the effects of the recession on the construction industry and other industrial sectors of the economy, in gen-

⁵ *Id.*, at p. 7.

⁶ *Id.*, at p. 5.

⁷ Resolution 07–19, a copy of which is attached as Attachment 1.

⁸ DOORS is an online reporting tool designed to help fleet owners report their off-road diesel vehicle inventories and actions taken to reduce vehicle emissions to ARB, as required by the regulation.

eral, and off-road fleets in particular. They will also be able to present testimony and information on how the recession has affected emissions in the State, and why further delay of the regulation's compliance schedule is necessary and will not affect California's continuing efforts to improve air quality within its borders. I am also requesting that AGC and other stakeholders provide concrete and verifiable information to support any claims that the economy, in general, and the construction industry, specifically, will not have sufficiently rebounded from the recession by 2013.⁹ The collected information will assist ARB staff in determining whether additional amendments to the regulation beyond those already adopted should be proposed to the Board.

In holding the hearing, I recognize that the present recession is the deepest recession since the Great Depression of the 1930s, that it has adversely impacted many fleets covered by the regulation, and that recovery from this recession is taking longer than many expected. I also recognize that the recession has resulted in reduced activity for many fleets and that, as a consequence, emissions are lower than forecasted in 2007, when the regulation was initially approved. However, what must be determined is the adequacy of the amendments already in place. The Executive Officer hearing will provide the best means of collecting information to make that determination.

In directing that an Executive Officer hearing be held, I have determined immediate Board action is not necessary since no emergency exists. The petition argues that the regulation must be immediately delayed by two years to prevent immediate and irreparable harm to fleets, in large part because the fleets have been adversely impacted by the current severe recession.¹⁰ There is no dispute that a severe recession exists and that fleets have been negatively impacted. However, the AB 8 2X amendments, which became operative on December 3, 2009, have averted the need for immediate emergency action. The amendments adopted by the Board address the petition's concerns by providing a two-year delay, except for the largest fleets that were able to sustain revenues at pre-recession 2007 levels. Any fleet that has reduced its horsepower through retirement of vehicles between March 1, 2006 and March 1, 2010 will receive compliance credit for that horsepower reduction. Similarly, any fleet that has reduced its operational activity over the last several years (i.e., the difference in fleet activity between calendar year 2007 and the 12-month period bounded by March 1, 2009 to February 28, 2010) will also receive compliance credit. This effectively provides immediate compliance relief in the first years of the regulation's

implementation for most fleets that have been adversely affected by the recession. For example, any fleet that has reduced its horsepower through retirements or reduced the amount that it operates by 32 percent or more will be COMPLETELY exempt from any compliance actions in 2010 or 2011 (i.e., will not be required to turn over any vehicles or install any retrofits). Fleets that have been more modestly impacted by the recession will be able to offset some of their 2010 and 2011 compliance requirements.

The AB 8 2X amendments also allow all fleets, even those unaffected by the recession, to postpone much of the compliance actions originally required for 2011 and 2012 until 2013. Fleets whose business has not been adversely impacted should financially be in position to meet the regulation's immediate 2010 requirements.¹¹ Moreover, it is reasonable to assume that at least some of these fleets will take advantage of the regulation's early action credit provisions.¹² This relief along with the compliance relief provided in the above-referenced advisory preclude my finding that an emergency exists. For these reasons, I cannot accept AGC's characterization that most, if not all, fleets need immediate further relief to avoid irreparable harm.¹³

Immediate action is also not required even though the AB 8 2X amendments do not address the fleet average requirements of the regulation. The petition essentially argues that the remedy provided in AB 8 2X is insufficient in that it does not address the fleet average requirements of the regulation.¹⁴ The argument is unsupportable because AB 8 2X specifically provides relief to fleets from the regulation's best available control technology (BACT) requirements, which are a compliance alternative to the fleet average requirements. Thus, to the extent that fleets achieve compliance by meeting the regulation's BACT requirements through credits for vehicle retirements and fleet inactivity, they are under no obligation to meet the fleet average requirements. Consequently, the AB 8 2X relief effectively addresses all of the regulation's performance requirements.

B. No Action is Warranted for ARB to Request that U.S. EPA Delay Issuing California an Authorization for the Regulation

The petition requests that ARB inform U.S. EPA that it should not issue the authorization that California has requested for the regulation. I have determined that such a request is outside of the scope of the APA petitioning process, which is directed at requests for adop-

⁹ See Petition at pages 4 and 6

¹⁰ Petition at page 6

¹¹ See e.g., title 13, Cal. Code Regs., §§ 2449(d)(1), 2449.1(a)(2)(A)2., and 2449.2(a)(2)(A)2.

¹² Title 13, Cal Code Regs., § 2449(g)(1)(G).

¹³ Petition at page 4.

¹⁴ Petition at pages 1 and 4.

tion, amendment, or repeal of a regulation.¹⁵ Accordingly, no action on the request is warranted.

C. Conclusion

In conclusion, for the foregoing reasons, I am granting the following relief: ARB will issue an advisory no later than February 28, 2010, notifying stakeholders that ARB will not take any enforcement action for non-compliance with the regulation's March 1, 2010 emission standards or other emission related requirements before it receives authorization from U.S. EPA. I have further determined that an Executive Officer hearing to take testimony and receive information on the question of whether further amendments to the regulation, beyond those that have been adopted to date, is warranted. At the hearing, AGC and other stakeholders will have the opportunity to present testimony and documentation on the recession's impact and what additional relief stakeholders need to address those impacts.

If you have questions regarding the decision on this petition or would like to discuss the regulation, please contact Mr. Erik White, Chief, Heavy-duty Diesel In-Use Strategies Branch, at (916) 322-1017 or ewhite@arb.ca.gov or Mr. Michael Terris, Senior Staff Counsel, Office of Legal Affairs, at (916) 445-9815 or mterris@arb.ca.gov.

Sincerely,

/s/
James N. Goldstene
Executive Officer

Attachment

cc: Tom Cackette,
Chief Deputy Executive Officer

Ellen M. Peter
Chief Counsel

Bob Cross, Chief
Mobile Source Control Division

Erik White, Chief
Heavy-Duty Diesel In-Use Strategies Branch

Michael Terris
Senior Staff Counsel
Office of Legal Affairs

SUMMARY OF REGULATORY ACTIONS

REGULATIONS FILED WITH SECRETARY OF STATE

This Summary of Regulatory Actions lists regulations filed with the Secretary of State on the dates indicated. Copies of the regulations may be obtained by contacting the agency or from the Secretary of State, Archives, 1020 O Street, Sacramento, CA 95814, (916) 653-7715. Please have the agency name and the date filed (see below) when making a request.

File# 2009-1231-02

BOARD OF CHIROPRACTIC EXAMINERS

Standard of Care re Manipulation Under Anesthesia

In this regulatory action, the Board of Chiropractic Examiners adopts a new regulation establishing the standard of care for chiropractors performing Manipulation under Anesthesia (MUA), including the definition of MUA and the conditions under which MUA may be performed. MUA is the manipulation by a licensed chiropractor of a patient who is sedated by the administration of anesthesia by a physician and surgeon or other health care provider who is legally authorized to administer anesthesia.

Title 16
California Code of Regulations
ADOPT: 318.1
Filed 02/16/2010
Effective 03/18/2010
Agency Contact: Robert Puleo (916) 327-3433

File# 2010-0125-02

DEPARTMENT OF CORRECTIONS AND REHABILITATION

Continuous Electronic Monitoring and Global Positioning System Program

This emergency regulatory action, submitted to OAL pursuant to Penal Code section 5058.3 as operationally necessary, deals with the use of continuous electronic monitoring and Global Positioning System (GPS) technology for parolees who have been identified as requiring a higher level of supervision.

Title 15
California Code of Regulations
ADOPT: 3540, 3541, 3542, 3543, 3544, 3545, 3546, 3547, 3548, 3560, 3561, 3562, 3563, 3564, 3565
Filed 02/16/2010
Effective 02/16/2010
Agency Contact:
Randy Marshall (916) 255-5785

¹⁵ Govt. Code § 11340.7.

File# 2010-0119-10
FAIR POLITICAL PRACTICES COMMISSION
 Reporting \$100 Committee Credit Card Payments

This FPPC rulemaking adopts one regulation on reporting expenditures charged to a credit, debit, or charge card by a candidate or committee and amends the existing regulation governing reporting of expenditures (on behalf of candidate or committee) by an agent or independent contractor.

Title 2
 California Code of Regulations
 ADOPT: 18421.9 AMEND: 18431
 Filed 02/11/2010
 Effective 03/13/2010
 Agency Contact:
 Virginia Latteri-Lopez (916) 324-3854

File# 2010-0119-11
FAIR POLITICAL PRACTICES COMMISSION
 Exception for filers in Connection with Speeches

This FPPC rulemaking amends the existing regulation governing "Travel in Connection With Speeches, Panels, and Seminars; Exception for All Filers" by substituting new provisions governing "Payments in Connection with Speeches".

Title 2
 California Code of Regulations
 AMEND: 18950.3
 Filed 02/11/2010
 Effective 03/13/2010
 Agency Contact:
 Virginia Latteri-Lopez (916) 324-3854

File# 2009-1231-04
NATURAL RESOURCES AGENCY
 Proposed Amendments to the CEQA Guidelines

This action updates the CEQA Guidelines and in particular supplements them to address the concern that the emission of greenhouse gasses must be analyzed during environmental review and mitigated if necessary.

Title 14
 California Code of Regulations
 ADOPT: 15064.4, 15183.5, 15364.5 AMEND:
 15064, 15064.7, 15065, 15086, 15093, 15125,
 15126.2, 15126.4, 15130, 15150, 15183, Appendix
 F, Appendix G
 Filed 02/16/2010
 Effective 03/18/2010
 Agency Contact:
 Christopher Calfee (916) 715-3164

**CCR CHANGES FILED
 WITH THE SECRETARY OF STATE
 WITHIN September 16, 2009 TO
 February 17, 2010**

All regulatory actions filed by OAL during this period are listed below by California Code of Regulations titles, then by date filed with the Secretary of State, with the Manual of Policies and Procedures changes adopted by the Department of Social Services listed last. For further information on a particular file, contact the person listed in the Summary of Regulatory Actions section of the Notice Register published on the first Friday more than nine days after the date filed.

Title 2
 02/11/10 ADOPT: 18421.9 AMEND: 18431
 02/11/10 AMEND: 18950.3
 02/09/10 ADOPT: 59660
 01/26/10 ADOPT: 1899.570, 1899.575, 1899.580,
 1899.585
 01/25/10 AMEND: 58100
 01/19/10 AMEND: div.8, ch. 102, sec. 59100
 01/14/10 AMEND: Section 27000
 01/13/10 ADOPT: div. 8, ch. 119, sec. 59640
 01/11/10 ADOPT: 18229.1, 18944 REPEAL:
 18944
 01/05/10 AMEND: div. 8, ch. 49, sec. 53800
 12/22/09 AMEND: 1859.96, 1859.148.2,
 1859.166.2
 12/21/09 AMEND: 1896.4, 1896.12
 12/21/09 ADOPT: 20714.5 AMEND: 20711,
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 11/24/09 AMEND: 1859.2
 11/24/09 AMEND: 1859.2, 1859.35, 1859.51,
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 SAB Form 50-04
 11/17/09 ADOPT: 20810, 20811, 20812, 20813,
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 11/16/09 AMEND: 1859.129, 1859.197
 11/12/09 ADOPT: 18944.4 AMEND: 18944.3
 11/12/09 ADOPT: 18219, 18734
 11/09/09 ADOPT: 1859.148.2, 1859.166.2
 AMEND: 1859.2, 1859.121, 1859.164.2,
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 11/09/09 ADOPT: 604 REPEAL: 604
 11/05/09 ADOPT: 60800, 60801, 60802, 60803,
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11/03/09	ADOPT: 1859.96 AMEND: 1859.2, 1859.90	10/27/09	AMEND: 8034, 8035, 8042, 8043
10/01/09	AMEND: 2291, 2292, 2294 ADOPT: 2297	10/20/09	AMEND: 1606
10/01/09	AMEND: 1898.2, 1898.7	10/07/09	AMEND: 7030, 7034, 7035, 7037, 7038, 7042, 7044, 7045, 7046, 7048, 7049, 7050
09/22/09	ADOPT: 18603, 18603.1		
09/22/09	ADOPT: 18901.1 AMEND: 18420.1		
09/18/09	AMEND: 1859.76		
09/17/09	AMEND: 2270, 2271		
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01/25/10	AMEND: 3434(b)	02/01/10	ADOPT: 70030, 70040, 71135, 71320, 71390, 71395, 71400.5, 71401, 71475, 71480, 71485, 71640, 71650, 71655, 71716, 71750, 71760, 74110, 74115, 76020, 76140, 76212, 76240 AMEND: 70000, 70010, 70020, 71100, 71110, 71120, 71130, 71140, 71150, 71160, 71170, 71180, 71190, 71200, 71210, 71220, 71230, 71240, 71250, 71260, 71270, 71280, 71290, 71300, 71310, 71340, 71380, 71400, 71405, 71450, 71455, 71460, 71465, 71470, 71500, 71550, 71600, 71630, 71700, 71705, 71710, 71715, 71720, 71730, 71735, 71740, 71745, 71770, 71810, 71850, 71865, 71920, 71930, 74000, 74002, 74004, 74006, 74120, 74130, 74140, 74150, 74160, 74170, 74190, 74200, 76000, 76120, 76130, 76200, 76210, 76215 REPEAL: 70030, 71000, 71005, 71010, 71020, 71330, 71360, 71410, 71415, 71420, 71490, 71495, 71505, 71510, 71515, 71520, 71555, 71560, 71565, 71605, 71610, 71615, 71650, 71655, 71725, 71775, 71800, 71805, 71830, 71855, 71860, 71870, 71875, 71880, 71885, 71890, 71900, 71905, 71910, 72000, 72005, 72010, 72020, 72101, 72105, 72110, 72120, 72130, 72140, 72150, 72160, 72170, 72180, 72190, 72200, 72210, 72220, 72230, 72240, 72250, 72260, 72270, 72280, 72290, 72300, 72310, 72330, 72340, 72360, 72380, 72400, 72405, 72410, 72415, 72420, 72450, 72455, 72460, 72465, 72470, 72500, 72505, 72515, 72520, 72550, 72555, 72560, 72565, 72570, 72600, 72605, 72610, 72615, 72650, 72655, 72700, 72701, 72705, 72710, 72715, 72720, 72725, 72730, 72735, 72740, 72745, 72770, 72775, 72800, 72805, 72810, 72830, 72850, 72855, 72860, 72865, 72870, 72875, 72880, 72885, 72890, 72900, 72905, 72910, 72915, 72920, 72930, 73000, 73010, 73100, 73110, 73120, 73130,
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01/25/10	ADOPT: 1430.54, 1430.55, 1430.56, 1430.57		
01/19/10	ADOPT: 3436		
01/12/10	AMEND: 3434(b)		
01/11/10	AMEND: 3406(b) and (c)		
01/06/10	AMEND: 3435(b)		
01/04/10	AMEND: 2675, 2734, 2735		
12/31/09	AMEND: 3434(b), (c), (e)		
12/29/09	AMEND: 3423(b)		
12/28/09	AMEND: 3434(b)		
12/28/09	AMEND: 3434(b)		
12/16/09	AMEND: 3591.20(a)		
12/16/09	AMEND: 3406(b)(c)		
11/25/09	AMEND: 3435(b)		
11/24/09	AMEND: 3430(b)		
11/16/09	AMEND: 3435(b)		
11/16/09	AMEND: 3406(b)(c)		
11/10/09	AMEND: 3434(b)		
10/30/09	AMEND: 3435(b), (c) and (d)		
10/15/09	AMEND: 3434(b)		
10/08/09	AMEND: 3434(b)		
10/08/09	AMEND: 3591.20(a)		
09/24/09	AMEND: 3406(b)		
09/24/09	AMEND: 3434(b)		
09/22/09	AMEND: 6562		
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02/01/10	AMEND: 1867		
01/29/10	AMEND: 1866		
01/27/10	AMEND: 10020		
01/27/10	AMEND: 1890		
01/27/10	AMEND: 1859		
01/27/10	AMEND: 1843.6 and 1858		
12/17/09	AMEND: 8070, 8072, 8073, 8074		
12/09/09	AMEND: 12388		
12/08/09	ADOPT: 12218.8, 12218.9, 12238, 12239 AMEND: 12200.9, 12200.10A, 12200.11, 12200.13, 12203.2, 12205.1,		

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		09/22/09	ADOPT: 7213.4, 7213.5, 7213.6, 7214.1, 7214.2, 7214.3, 7214.4, 7214.6, 7214.8, 7215.1, 7216.1, 7216.2, 7220.3, 7220.5, 7220.7 AMEND: 7213, 7213.1, 7213.2, 7213.3, 7214, 7215, 7216, 7218, 7220, 7221, 7224, 7225, 7226, 7226.1, 7226.2, 7227, 7227.1, 7227.2 REPEAL: 7219
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		02/03/10	AMEND: 2695.85
		01/21/10	ADOPT: 3575, 3576, 3577 AMEND: 3500, 3522, 3523, 3524, 3526, 3527, 3528, 3529, 3530, 3582, 3681, 3702, 3703, 3721, 3724, 3726, 3728, 3731, 3741
		01/07/10	AMEND: 2651.1, 2652.1, 2652.10, 2653.3, 2653.4, 2653.5, 2654.1, 2655.3, 2655.4
		12/15/09	REPEAL: 2232.45.1, 2232.45.2, 2232.45.3, 2232.45.4, 2232.45.5
		12/08/09	AMEND: 2699.6603
		12/07/09	ADOPT: 2309.2, 2309.3, 2309.4, 2309.5, 2309.6, 2309.7, 2309.8, 2309.9, 2309.10, 2309.11, 2309.12, 2309.13, 2309.14, 2309.15, 2309.16, 2309.17, 2309.18, 2309.20
		12/03/09	AMEND: 2698.600, 2698.602
		12/01/09	ADOPT: 2031.1, 2031.2, 2031.3, 2031.4, 2031.5, 2031.6, 2031.7, 2031.8 AMEND: 2031.9, 2031.10
		12/01/09	ADOPT: 2850.1, 2850.2, 2850.3, 2850.4, 2850.5, 2850.6, 2850.7, 2850.8, 2850.9, 2850.10
		12/01/09	ADOPT: 4.1, 4.2, 4.3, 4.4, 4.5, 4.6, 4.7, 4.8, 4.9, 4.10
		12/01/09	AMEND: 2699.200, 2699.201
		11/19/09	AMEND: 5500, 5501, 5502, 5503, 5504, 5505, 5506, 5507
		11/19/09	AMEND: 2498.5
		11/19/09	AMEND: 2498.5
		11/19/09	AMEND: 2498.4.9
		11/19/09	AMEND: 2498.4.9
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	02/02/10	AMEND: 1549(h)	
	12/09/09	AMEND: 9812, 10111.2	
	12/02/09	AMEND: 4086	
	11/19/09	AMEND: 15600, 15601, 15602, 15603, 15604, 15605, 15606, 15607, 15611	
	11/04/09	AMEND: 9771, 9778, 9779, 9779.5 REPEAL: 9779.9	
	10/28/09	AMEND: 3333, 3650	
	10/26/09	AMEND: 5306	
	10/22/09	AMEND: 3277	
	10/07/09	AMEND: 2395.6	
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	12/21/09	ADOPT: 9550	

11/10/09	AMEND: 260.101.2, 260.103.4, 260.105.7, 260.105.17, 260.105.33, 260.105.34, 260.211.1, 260.217, 260.230, 260.241.4, 260.242 REPEAL: 260.105.37, 260.204.11	09/16/09	ADOPT: 2468, 2468.1, 2486.2, 2468.3, 2468.4, 2468.5, 2468.6, 2468.7, 2468.8, 2468.9, 2468.10
10/29/09	AMEND: 2699.6809	Title 13, 17	
10/29/09	AMEND: 2699.6600, 2699.6607, 2699.6619, 2699.6621, 2699.6705, 2699.6715, 2699.6725	12/03/09	AMEND: Title 13 — 1956.8, 2020, 2022, 2022.1, 2027, 2449, 2449.3, 2451, 2452, 2453, 2455, 2456, 2458, 2461, 2462, 2479, 2485, Title 17 — 93116.1, 93116.2, 93116.3, 93116.5
10/26/09	AMEND: 2632.9	Title 14	
10/26/09	AMEND: 2695.85	02/16/10	ADOPT: 15064.4, 15183.5, 15364.5 AMEND: 15064, 15064.7, 15065, 15086, 15093, 15125, 15126.2, 15126.4, 15130, 15150, 15183, Appendix F, Appendix G
10/15/09	AMEND: 2632.5	02/09/10	ADOPT: 1.54, 5.70, 5.83 AMEND: 1.74, 2.00, 2.09, 2.30, 3.00, 5.00, 5.15, 5.30, 5.37, 5.40, 5.51, 5.60, 5.79, 5.80, 5.81, 5.82, 5.87, 5.88, 7.00, 7.50, 8.00, 27.80, 27.92, 29.90, 700, 701
10/06/09	ADOPT: 2728, 2773, 2903 AMEND: 2731, 2848, 2930 REPEAL: 2728, 2755	02/03/10	AMEND: 11960
09/29/09	AMEND: 2699.6625	02/01/10	AMEND: 1257
09/24/09	AMEND: 260.004, 260.017.1, 260.102.14, 260.165, 260.210, 260.211, 260.230.1, 260.236, 260.236.1, 260.237.2, 260.240, 260.241.3 REPEAL: 260.101, 260.103.3, 260.237.1	01/29/10	AMEND: 791.7, 792
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09/17/09	AMEND: 2699.6805	01/14/10	ADOPT: 749.5
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01/05/10	AMEND: 900, 901, 902, 903, 904, 905, 906 REPEAL: 907, 908, 909, 910, 911	12/29/09	AMEND: 4609
11/09/09	AMEND: 1005, 1007, 1008	12/21/09	AMEND: 670.5
10/14/09	AMEND: 9052(c), 9053(b), 9053(c), 9053(e)(5)(A)4, 9053(e)(10)(A), 9053(e)(10)(B), 9054(e)(4), 9057(b), 9059(b), 9059(c), 9059(e)(9)(A), 9059(e)(9)(B), 9060(e)(4)	12/21/09	AMEND: 2310, 2320
Title 12		12/02/09	AMEND: 699.5
10/13/09	ADOPT: 600 REPEAL: 600	12/01/09	AMEND: 895, 895.1, 898, 914.8, 916, 916.2, 916.5, 916.9, 916.11, 916.12, 923.3, 923.9, 916.9.1, 923.9.1, 934.8, 936.5, 936, 936.2, 936.9, 936.9.1, 936.11, 936.12, 943.3, 943.9, 943.9.1, 954.8, 956.5, 956, 956.2, 956.9, 956.11, 956.12, 963.3, 963.9
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01/05/10	AMEND: 553.70	11/23/09	ADOPT: 749.4
12/31/09	AMEND: 2449, 2449.1, 2449.2	11/18/09	AMEND: 163, 164
12/31/09	AMEND: 2449, 2449.1, 2449.2	10/29/09	AMEND: 551
12/15/09	ADOPT: 155.07 AMEND: 155.05	10/27/09	AMEND: 938.8
12/09/09	ADOPT: 2025		
12/03/09	AMEND: 425.01		
10/20/09	AMEND: 2433		
10/13/09	ADOPT: 2350, 2351, 2352, 2353, 2354, 2355, 2356, 2357, 2358, 2359		

10/27/09 ADOPT: 1530.05 AMEND: 1553, 1554,
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10/26/09 ADOPT: 1091.15 AMEND: 1091.9
10/22/09 ADOPT: 749.5
10/20/09 ADOPT: 6594, 6594.1, 6594.2, 6594.3,
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10/20/09 AMEND: 300
10/07/09 AMEND: 122
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3054.4 (renumbered to 3054.5), 3054.5
(renumbered to 3054.6), 3054.6
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01/25/10 ADOPT: 3075.2(b)(4) through (b)(4)(C),
3075.3(c), 3505 AMEND: 3000, 3075.2,
3075.3, 3502, 3504
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12/21/09 AMEND: 3287, 3290
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01/06/10 AMEND: 1505
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12/09/09 AMEND: 1314.1
12/03/09 AMEND: 1338
11/30/09 AMEND: 832.45, 832.46, 861 REPEAL:
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11/30/09 AMEND: 2286
11/12/09 ADOPT: 645
11/05/09 ADOPT: 3340.42.2 AMEND: 3340.17,
3340.42
10/08/09 AMEND: 1888
10/07/09 ADOPT: 1399.90, 1399.91, 1399.92,
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1399.97, 1399.98, 1399.99 REPEAL:
1399.50, 1399.52
10/05/09 ADOPT: 1399.514
09/16/09 ADOPT: 1950.1 AMEND: 1984
09/16/09 ADOPT: 1399.720, 1399.721, 1399.722,
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12/17/09 ADOPT: 100600, 100601, 100602,
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12/14/09 ADOPT: 95320, 95321, 95322, 95323,
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12/09/09 ADOPT: 95300, 95301, 95302, 95303,
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11/12/09 AMEND: 30305
11/10/09 ADOPT: 100502
10/15/09 ADOPT: 1230 REPEAL: 1230
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01/20/10	AMEND: 5237, 5266	09/16/09	ADOPT: 2814.20, 2814.21, 2814.22, 2814.23, 2814.24, 2814.25, 2814.26, 2814.27, 2814.28, 2814.29, 2814.30, 2814.31, 2814.32, 2814.33, 2814.34, 2814.35, 2814.36, 2814.37 REPEAL: 2814.20, 2814.21, 2814.22, 2814.23, 2814.24, 2814.25, 2814.26, 2814.27, 2814.28, 2814.29, 2814.30, 2814.31, 2814.32, 2814.33, 2814.34, 2814.35, 2814.36, 2814.37
09/29/09	AMEND: 1620		
Title 19			
11/19/09	AMEND: 200, 204, 206, 207, 208, 209, 211, 212, 214, 215, 216, 217		
11/06/09	AMEND: 901, 905, 905.2, 906.3		
Title 21			
01/21/10	ADOPT: 2620, 2621, 2622, 2623, 2624, 2625, 2626, 2627, 2628, 2629, 2630, 2631, 2632, 2633, 2634, 2635, 2636, 2637, 2638, 2639, 2640, 2641, 2642, 2643, 2644, 2645, 2646, 2647, 2648, 2649, 2650, 2651, 2652	Title 24	
10/06/09	ADOPT: 1412.1, 1412.2, 1412.3, 1412.4, 1412.5, 1412.6, 1412.7, 1412.8, 1412.9	12/02/09	ADOPT: 1–702 AMEND: 1–701
09/16/09	ADOPT: 7700, 7701, 7702, 7703, 7704, 7705, 7706, 7707, 7708, 7709, 7710, 7711	Title 25	
Title 22			
01/27/10	AMEND: 4402.2, 4406, 4409, 4420, 4420.5, 4426	01/29/10	AMEND: 5000, 5001, 5002, 5010, 5011, 5012, 5013, 5020, 5020.5, 5021, 5022, 5023, 5023.5, 5024, 5025, 5026, 5027, 5028, 5029, 5030, 5032, 5034, 5036, 5038, 5040, 5043, 5050, 5051, 5052, 5053, 5054, 5055, 5056, 5057, 5060, 5061, 5062, 5063, 5070, 5071, 5072, 5073, 5080, 5081, 5082, 5082.5, 5083, 5090, 5094, 5301, 5302, 5304, 5306, 5308, 5310, 5312, 5314, 5316, 5318, 5320, 5322, 5324, 5326, 5328, 5332, 5336, 5338, 5340, 5342, 5344, 5346, 5348, 5350, 5352, 5354, 5356, 5360, 5362, 5364, 5366, 5368 REPEAL: 5042
01/21/10	AMEND: 455.5–6, 455.5–7, 455.5–8	10/29/09	AMEND: 1008
12/31/09	AMEND: 97018, 97019, 97215, 97216, 97222, 97225, 97226, 97227, 97231, 97232, 97234, 97240, 97241, 97244, 97245, 97246, 97249, 97260, 97261, 97264, 97267	10/15/09	ADOPT: 4100, 4102, 4104
12/21/09	AMEND: 7314	09/17/09	AMEND: 637
11/24/09	ADOPT: 65800, 65801, 65802, 65803, 65804, 65805, 65806, 65807, 65808	09/17/09	AMEND: 1008
Title 22, MPP			
02/04/10	ADOPT: 84074 AMEND: 83074, 83087, 84087, 84274, 86074, 86087, 86574, 89374	Title 27	
Title 23			
01/26/10	AMEND: 3939.10	12/17/09	ADOPT: 10010 REPEAL: 10010
12/15/09	AMEND: 2200	12/02/09	AMEND: 27001
12/01/09	ADOPT: 5.1, 13.1, 13.2, 138 AMEND: 1, 3, 4, 5, 6, 7, 8, 13, 15, 109, 112 Table 8.1, 120, 193 Appendix A	10/26/09	AMEND: 25102(d)
11/04/09	ADOPT: 2631.2	Title 28	
11/02/09	ADOPT: 3919.5	12/18/09	ADOPT: 1300.67.2.2
10/21/09	AMEND: 1062, 1064, 1066, 1070	Title MPP	
10/06/09	AMEND: 3939.2	01/29/10	ADOPT: 91–101, 91–110, 91–120, 91–130, 91–140
09/30/09	ADOPT: 570, 571, 572, 573, 574, 575, 576	12/22/09	AMEND: 11–425, 22–001, 22–003, 22–009, 45–302, 45–303, 45–304, 45–305, 45–306
09/30/09	AMEND: 3939.2	12/15/09	AMEND: 70–104
		11/10/09	AMEND: 31–002, 31–003 and 31–502
		09/22/09	AMEND: 40–107, 42–213, 89–130